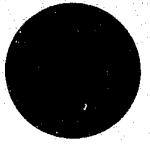


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A Study of  
ORGANIZED CRIME BUSINESS-TYPE ACTIVITIES  
and Their  
IMPLICATIONS FOR LAW ENFORCEMENT

Prepared for the

NATIONAL INSTITUTE OF JUSTICE  
Washington, D.C.

by

Herbert Edelhertz and Thomas D. Overcast

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Northwest Policy Studies Center  
Kirkland, Washington

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## Abstract

This report describes a program of descriptive research on the nature of the business-type activities of organized criminal groups. Business-type activities refer to the activities of those groups that parallel those of legitimate business, whether such activities occur in illicit or legitimate settings.

The continuing application of enforcement tools, such as the federal RICO statute and its state counterparts has threatened the ability of organized criminal groups to maintain their activities and operations. A better understanding of the business-type activities of such groups is central to the continuing effective utilization of such tools because they are critical in proving the existence of a criminal "enterprise" under RICO and are useful in identifying and tracing assets for seizure.

Law enforcement has accumulated extensive experience with the use of a variety of enforcement tools against organized criminal groups. In most instances such cases rely on the ability to investigate and prove the business-type activities of such groups. This body of experience was captured and described for the use and benefit of both of the research and wider law enforcement communities through (1) a systematic examination and analysis of indictments and related public record information on organized criminal groups, and (2) site visit interviews with experienced organized crime investigators and prosecutors.

The research resulted in an inventory of the business-type activities conducted by organized criminal groups, and the methods used to carry them out. It also provides information on how these activities create special vulnerabilities that can be exploited by law enforcement. The results of this research will benefit future research on organized crime, and will directly benefit local, state and federal law enforcement agencies, helping them to investigate and prosecute organized crime with more permanent and long-lasting effect.

## Preface and Acknowledgements

This research was driven by the assumption that the operations of organized criminal groups must necessarily involve many activities that are parallel to those of other business ventures, and that the assemblage and analysis of a body of information on such activities would be of benefit both to law enforcement practitioners and the research community.

The original plan for this research was to gather information from two sources: (1) the public record of indictments, civil complaints, and other litigation-related documents, and (2) interviews of selected investigators and prosecutors, avoiding any information that would be confidential as a matter of law or agency policy. This general plan was carried out in rough outline, albeit with some additions and changes of emphasis.

The major shift in this study was to place greater stress on the site visit interviews and on the literature than was originally contemplated. By the time of the Advisory Panel meeting, somewhat more than halfway through the project, it was clear that the indictments and civil complaints that we looked to for much of our data were informative, but still left much to be desired. We explained this to the Advisory Panel and signalled our intent to shift a greater proportion of project resources from examination and analysis of these enforcement pleadings to site visit interviews, and to information that could be gathered from the literature. We did go beyond the pleadings, in some instance to examination of search warrant material, appellate briefs, and trial transcripts.<sup>1</sup>

We found the site visit interviews to be most rewarding. Though conducted with the assistance of a detailed interview protocol, the interviews were informal and frequently ranged beyond the narrow confines of the study, providing additional perspectives that were particularly helpful to our overall work. Our examination of the literature included news accounts, journal articles, and reports of commissions such as those of the President's Commission on Organized Crime (1983-1986) and the Pennsylvania Crime Commission (1980). The former was particularly helpful in that it contained a mass of material that we examined through a somewhat different lens than the Commission itself -- looking only for specific information that shed light on the operational practices of organized criminal groups. The latter presented a wealth of similar detail focusing on Pennsylvania and adjacent states.

We avoided involvement in the definitional morass that almost always seems to accompany organized crime studies, preferring to accept as "organized crime" those cases that were selected for attention by dedicated organized crime law enforcement agencies. Thus, our basic selection of cases represented primarily a two-year workload of indictments and civil complaints launched by these agencies. From these we culled not a representative sample, but rather a purposive sample of those that contributed to our inventory or organized crime business-type practices. These we call our "active" cases, and coded each of them for a large number of variables. The remaining majority of cases, characterized as "inactive," either present little or no business-type activities for our

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<sup>1</sup>See Appendix 2 for a detailed description of the project methodology.



consideration, or were significantly duplicative of active cases already in the data base. Inactive cases were also coded, but only for a limited number of descriptive variables. As will be noted elsewhere in this report, we did not include any cases that involved groups solely engaged in drug trafficking among our active cases because these groups differed so very much from any of the other groups that we were examining.

We owe a special debt of gratitude to the many people who made this study possible and contributed to effort itself. First of all we are grateful to those who listened to our ideas and encouraged us to go forward with the project, particularly former United States Attorney Rudolph W. Giuliani of the Southern District of New York and his successor, Benito Romano, Oliver W. Revell, Executive Assistant Director for Investigations of the Federal Bureau of Investigation, and Arizona Chief Assistant Attorney General Steven J. Twist.

We could not have gathered our indictments and civil complaints, or gathered information from site visit interviews without the cooperation of many prosecutive and investigative agencies. They carried a heavy burden here. We know what it meant to them to gather indictments and complaints, interact with us over the telephone on numerous occasions, respond to our requests for supplemental information, and then submit to day-long interviews -- in the midst of their obviously busy schedules. The cooperating agencies to whom we will always be grateful were:

- o the fourteen federal Organized Crime Strike Forces,
- o The Office of the United States Attorney for the Southern District of New York,
- o the Federal Bureau of Investigation, and particularly its field office staffs in the areas of jurisdiction of the federal Organized Crime Strike Forces.
- o the New York State Organized Crime Task Force, and
- o the Offices of Attorneys General of Arizona, California, and Oregon,

Little of this would have been possible without the support of the headquarters of these agencies. David Margolis, Chief of the Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice, and his aides, Marvin R. Loewy and Gerald A. Toner, went to great lengths to facilitate our work with the federal Organized Crime Strike Forces and to facilitate the workings of our Advisory Panel. In the Federal Bureau of Investigation, Oliver B. Revell, Executive Assistant Director, his aide Inspector Tom Jones, and Michael D. Wilson, Chief of the Organized Crime Section of the Criminal Investigation Division made possible the cooperation of its field offices that was so essential to our work. Ronald Goldstock, Director of the New York State Organized Crime Task Force, not only facilitated the cooperation of his agency, but also provided most useful advice to this effort.

We must note the help of the project's Advisory Panel<sup>2</sup> that gave us both formal and informal advice, and who individually and as a group gave us special guidance in dealing with problems that arose in the course of this effort.

The two consultants to the project, Merlyn Bell and Professor Charles H. Rogovin, provided invaluable support. Merlyn Bell critiqued the development of our data collection instruments, and helped with our analyses. Professor Rogovin gave general guidance to the project from his wealth of experience as a practitioner, administrator and academician. We would have been hard pressed but for their assistance.

Finally, we express our gratitude to the staff of the National Institute of Justice who supported this project. James K. Stewart, its director, met with the project's Advisory Panel, and contributed to its deliberations. Fred Heinzelmann, in his supervisory capacity and as a participant in the Advisory Panel could not have been more helpful. Finally, we express our particular appreciation to the National Institute of Justice Project Monitor, Lois Mock, for her unflinching support at every step of this effort. She provided substantive suggestions, critiqued our data collection instruments, smoothed a myriad of administrative difficulties, and was a major facilitator of our work -- the very model of what all researchers hope for in their project monitors.

Herbert Edelhertz

Thomas D. Overcast

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<sup>2</sup>See Appendix 3 of this report.

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## Executive Summary

Researchers have examined organized crime from many different perspectives, such as the use of force and violence, organizational analysis, ethnic and cultural elements, public corruption, exploitation of particular economic and ethnic populations, marketing of illicit services, marketing stolen or contraband merchandise, and infiltration of legitimate business. This study examines the "business-type activities" of organized criminal groups, whether in legal, illegal or mixed ventures, that (1) in structure or operations parallel those of legitimate organizations, or (2) are engaged in serving legitimate markets for goods and services. Business-type activities are made up of two components:

- (1) "activities," which refer to the general set of substantive business operations in which organized criminal groups or businesses may be engaged. Such activities can be either illegal (such as prostitution, loansharking, or labor racketeering) or legal (such as construction, waste hauling, or union administration); and
- (2) "elements," which refer to the operations used to implement or carry out activities. Such elements may be patently illegal with no parallel or similarity to the operation of a legitimate business (such as extortion by threat of violence), or they may parallel legal operations (such as the use of a computer to track and assist on-going business operations).

Thus, the business-type activities of organized criminal groups form a continuum described by the following anchors:

1. Strictly legal business.
2. Legal business that is a conduit or vehicle for illegal activity.
3. Illegal business that is a conduit or vehicle for legal activity.
4. Strictly illegal business.

The importance of understanding the business-type activities of organized crime arises from the increasingly popular use of the federal RICO statute and its state counterparts as a way to strike at criminal organizations and not just at individual criminals. Key to RICO prosecution is proof of the existence of a criminal "enterprise" and the conduct of the enterprise's affairs through a "pattern of racketeering activity. . . ." Business-type activities are important in this context because of the necessary emphasis on (1) white-collar crimes that must be proved through testimony laying out how the business of the crime was conducted and (2) crimes involving the sale of illegitimate goods and services. Thus, law enforcement efforts directed against organized criminal groups have been compelled to look carefully at the business-type activities of organized criminal groups, examining these organizations as if they were ordinary business enterprises.

A focus on business-type activities is even more critical to the remedies that result from successful prosecution of organized criminal groups -- such as seizure and forfeiture of property, and injunctions to remove members of organized criminal groups from positions of power and influence in business and labor organizations. The analysis of

business-type activities directly addresses the ways in which the property and assets of organized criminal groups are used to carry out criminal objectives.

Information on such business-type activities is available from a number of different sources. Much of the organized crime literature (including media reports, crime commission reports, and autobiographical materials), though focusing on other aspects of organized crime, contains material bearing on this issue. Two other sources were major contributors to our knowledge of such business-type activities. Organized crime indictments and complaints contain narrative material that frequently describes such activities. The experiences of investigators and prosecutors who put together cases against organized crime figures and groups are a major resource since these practitioners operate on a most practical level to collect and analyze evidence dealing with such activities. In this study we therefore utilized two general sources of data in addition to the literature: (1) a data base consisting of 165 organized crime indictments and complaints. Cases in the data base were purposely selected for the light they could shed on business-type activities and elements -- the data base was specifically intended to be descriptive, not a representative sample of organized crime cases; and (2) in-depth site visit interviews with experienced investigators and prosecutors in law enforcement units dedicated to organized crime enforcement. Data and information from these sources provided a detailed picture of the nature of business-type activities of organized criminal groups, why they were undertaken, and how they were implemented.

### Business-Type Activities: Illegal Activity

One way to shed light on the nature of the illegal activities of organized crime is to look at the offenses that are charged in indictments and complaints. From this perspective, white-collar crimes constitute about 33% of the violations in the data base, while gambling and gambling-related charges constitute only 5% of the total. This latter finding is in contrast to the importance accorded the business of gambling in site visit interviews, where it was felt that gambling was a steady source of income for organized criminal groups, was the easiest for organized crime to control, and served a ready and voluntary clientele. In explaining the discrepancy, prosecutors and investigators made the point that prosecutions focusing solely on gambling are not a productive use of law enforcement resources because juries are less willing to convict individuals for such offenses and that, even if a conviction is obtained, sentences for gambling violations are relatively light and do not significantly interfere with the ongoing operation of the business of gambling.

Because the offenses actually charged in an indictment or complaint often reflect only a small part of the criminal activities of defendants, we also examined other illegal activities (e.g., predicate offenses in RICO indictments, or illegal activities described in support of conspiracy charges) that were described in the indictment but not charged. Among illegal activities described but not charged in the indictments, approximately one-third of these activities involved white-collar criminal activity. An even larger proportion of white-collar crimes might have emerged if we had been able to investigate more closely the operations underlying other charges in the data base.

Because of the nature of the activities of organized criminal groups, it may be misleading to concentrate on the prevalence of individual illegal activities. The choices that organized criminal figures make, to engage in particular operations, may stem from their own expertise, from traditional areas staked out in the past, or from the need to enter one field of endeavor in order to support activities in another field. There is also good reason to

to argue that such choices may simply reflect common responses to any opportunities that present themselves, regardless of the nature of such opportunities. However, the important question is whether such activities exist in synergy with one another -- do illegal activities occur in combinations or common patterns that can be exploited by law enforcement? This question was addressed both through the data base and site visit interviews.

In the data base, embezzlement, bribery, extortion and fraud were found to be most frequently in combination with other illegal activities. Not surprisingly, however, the threat of violence is the most likely criminal behavior to be found in conjunction with other organized criminal activities. Activities closely related to white-collar crimes and the business-type activities most closely associated with them frequently appear in combination with other illegal activities.

To some extent, the results from the data base correspond to the information derived from site visit interviews. In response to questions about illegal activities that frequently occurred in conjunction with each other, interview respondents identified the following:

1. Gambling - loansharking. Gamblers generally need money and the loansharks are there to provide it. In the law enforcement community this relationship is described as well-known and well-documented.
2. Gambling - tax violations. In some jurisdictions, tax charges are nearly always brought in conjunction with gambling violations, especially if the Internal Revenue Service is involved in the investigation from the onset and if the investigation and prosecution of the tax charges have the approval of that agency.

Tax charges are often the only way to get convictions in gambling cases because juries are predisposed to see gambling as a "victimless" crime. The addition of a tax charge provides a vehicle for a conviction on an offense that is clearly illegal and toward which juries are far less sympathetic than they are toward gambling.

3. Extortion - gambling. The relationship between these activities is straightforward -- a person who incurs a large gambling debt is an obvious target for extortion.
4. Extortion - union corruption. Corrupt union officials are in a particularly opportune position to use the power of a union against businesses and individuals for purposes of extortion.

In addition to relationships among illegal activities, we examined specific illegal activities and practices that emerged from our examination of indictments and complaints and from site visit interviews. Our focus was not on the common aspects of organized criminal activity, such as loansharking, gambling and extortion. Rather, we directed our attention to unique, special aspects of these activities and to other uncommon activities we

encountered. For example:

1. Street taxes. The street tax is a levy imposed by organized criminal groups on activities, both legal and illegal, taking place within what they perceive to be their "turf." The street tax apparently arose from the realization at the highest levels of organized crime that organized crime could benefit immensely from such a tax rather than from the actual day-to-day conduct of the taxed activities. From one perspective, the street tax can be seen as simply another form of extortion. However, there are other implications that flow from this practice. For example, employment of the street tax generally reduces the pressure on organized crime to impose and enforce barriers to entry into illegal activities, provides greater opportunity for criminal entrepreneurs, and expands and extends markets for illegal activities -- without the necessity of a corresponding expansion of the organized criminal group to service and police these activities.
2. Loansharking. In addition to the common loansharking practices, we found three loansharking approaches that are worthy of special attention.
  - a. Bridge loans. Bridge loans may be comparable to "bait-and-switch" tactics that are often the subject of consumer protection actions. Victims are promised conventional financing at legal rates. Just prior to consummation of the loan, victims are told that the financing has fallen through, but that temporary emergency financing (a bridge loan) is available at dramatically higher interest rates while regular financing is sought (which, of course, never comes through).
  - b. Use of legal process. A number of instances were found in which loansharks threatened recourse to legal process in order to coerce payment from debtors. In such cases, loanshark debts were partially memorialized in traditional debt instruments.
  - c. Check cashing services. These services provide a number of benefits to organized criminal groups, particularly in money laundering. They also offer new avenues for loansharking by tapping new victim populations, then employing new and imaginative schemes to achieve loansharking objectives. One such scheme, particularly adapted to the check cashing environment, involves holding rather than clearing checks written by borrowers in exchange for cash, then charging service fees for holding such checks. These fees have been as high as 20% per week on the amounts borrowed.
3. Arson. In addition to its roles in defrauding insurance companies, extortion schemes and covering up crimes of violence, arson also appears to be used as a potential form of collateral for loans or business financing.
4. White-collar crimes. The data base and information from site visit interviews and other sources lend strong support to the hypothesis that white-collar crimes are inextricably intertwined with the operations of organized criminal groups. The skills and techniques of white-collar crime investigation and

prosecution are part and parcel of the resources needed in day-to-day enforcement efforts against organized crime.

5. Labor abuses. Organized criminal exploitation of control of labor organizations was a substantial element in the data base, the site visit interviews and the literature reviewed in the study. Such activity took a variety of conventional forms, such as:
  - a. embezzlement of union funds,
  - b. kickbacks from suppliers of goods and services, including pension and benefit fund management,
  - c. kickbacks from borrowers of pension funds,
  - d. fraudulent claims against benefit funds, and
  - e. sweetheart contracts.

In addition to these traditional areas of abuse, a number of sophisticated schemes were represented in our data, typically involving the leveraging of union power to facilitate the creation or maintenance of monopolies, restraint of competition, and as a factor in regulation of otherwise legitimate activity. Typical of such schemes are the exploitation of labor leasing, and the use of desk drawer contracts

6. Monopolies. A key business-type activity of organized crime is the establishment and maintenance of monopolies. The exploitation of labor unions to accomplish this objective has been a frequent subject of attention. In this regard, the leverage of union control has also been used as a significant component in multi-faceted schemes to develop and nurture monopolies in the legitimate business sector. Examples where such leverage has been effectively used are the carting industry, the garment industry in New York City, and the monopolization of concrete construction in New York City.
7. Market regulation. Business communities generally seek predictability and stability in the markets in which they operate. Sometimes such order is compelled by government regulation (as in the allocation of cable television franchises, and the establishment of public utilities), and sometimes by voluntary action through industry trade associations. In markets in which there is no stability or predictability, organized crime has exploited opportunities to impose such order and reap the benefit of the control it exerts over market activities. The circumstances that surrounded New York City's Fulton Fish Market illustrate organized crime's control and exploitation of market conditions.

#### Business-Type Activities: Legal Activity

Although the primary function of organized criminal groups is the pursuit of income from illegal activities, for a variety of reasons such groups necessarily engage in what are or at least appear to be legal activities. Some such activities are complements to ongoing



illegal activities, while others may stem from organized crime's need to invest or otherwise cover up the proceeds of illegal activities. Thus, it is not surprising that the legal activities of organized criminal groups cover a wide range. While the range and frequency of illegal activities of organized criminal groups may be limited by the availability of opportunities and the efforts of law enforcement, such limitations generally do not come into play with respect to legal activities in which organized criminal groups can engage.

The majority of legal activities represented in the data base are those that relate to sites or platforms that facilitate the implementation or conduct of illegal activities. For example, union administration clearly enhances the opportunity to defraud union benefit funds; adult entertainment and adult book stores serve as potential outlets for pornography and prostitution; and involvement in banking facilitates money laundering, and an otherwise legitimate limousine service has been used to deliver cocaine. Legal activities more closely connected to organized criminal investment in legitimate enterprises, such as real estate, were not common in the data base.

It is generally assumed that particular legal activities are attractive to organized criminal groups -- as income producers, as vehicles for the conduct of illegal activities or for handling the proceeds of such activities, and as avenues for investing in legitimate businesses. In general, our data show that organized crime is attracted to any business area, business organization or business opportunity for exactly the same reasons that motivate legitimate entrepreneurs -- the perception that there is money to be made. Beyond this, however, there are other considerations that appear to influence the attractiveness of a business opportunity for organized crime. For example, a business may become a target for organized crime takeover not because of any special characteristics of that business but rather because its control or acquisition stems from other organized criminal group activities -- a business whose owner has fallen victim to a loanshark, for instance. As a general rule, however, organized criminal groups find attractive those legal activities and businesses that are familiar and that parallel illegitimate activities in which they are already involved. There is no reason to believe that any activity or business arena is immune to organized criminal group involvement.

It is clear that organized criminal groups are drawn to "choke points" in legal activity -- i.e., service-related, labor-intensive industries where participation provides organized crime the opportunity for entry and control in sister/companion businesses and in related component businesses. Thus, if organized criminal groups participate in and dominate the concrete construction industry (as it did in New York City), it is in a position to severely disrupt (and thus exercise control over) widely divergent activities that depend on a steady and predictable supply of concrete. Influence or control over labor unions provides access to the same kind of choke point for any business or industry that depends on a reliable supply of labor, both skilled and unskilled. In general, unions are attractive targets for organized crime because they present the potential to achieve a number of organized crime objectives:

1. Employment opportunities for those with organized crime connections at good, and often extravagant salary levels, and special benefits and perquisites available to union officials and members.
2. Low or non-existent capital requirements for entry.

3. Use of a union as a "cash cow" to be milked through embezzlement and exploitation of pension, health and welfare funds, no-show employees, and kickbacks from the purchase of goods and services.
4. Use of a union to provide leverage to control or regulate a trade or industry to obtain special profits from their operations.

Similarly, business activities that are not the subject of close regulatory scrutiny are attractive to organized crime. Organized criminal groups are obviously reluctant to engage in those activities that draw the attention of regulatory or law enforcement agencies, and conversely, are drawn to those activities in which such attention is lacking. Regulatory scrutiny may be lacking because a business area is not one that is a traditional subject of regulation, or it may be lacking because of deficiencies of regulatory oversight either through inadequate attention, underfinanced regulatory efforts, or public corruption that deflects regulatory attention.

Finally, there is a clear and distinct relationship between the attractiveness of a business or industry and its potential for vulnerability to influence or control through one or more of the major unions that have shown themselves amenable to organized crime corruption.

In both the data base and site visit interviews, we addressed the question of the purposes for organized crime involvement in legal activities. At first blush, the question itself may appear to be trivial -- clearly one answer to the question is simple, "to make money." However, in exploring this question in some depth, it became clear that the answer was not so simple; that there were myriad reasons whose importance depended both on the nature of the legal activity and the individuals or groups who undertook that activity. In general, however, the purposes of organized crime involvement in legal activities can be categorized along the following dimensions:

1. Legitimacy. From a sociological perspective, personal legitimacy has become an increasingly important motivation for organized criminal group members and associates. The need to be seen as a "respectable citizen" carries increasing weight in organized crime decision making, particularly among higher level organized crime members.
2. Plausibility. Entry into and participation in the "legitimate" business sector provides at least the facade of plausibility that can be raised in the face of questions from law enforcement, particularly the inquiries of the Internal Revenue Service.
3. Deniability. Active engagement in a legitimate business enterprise results in additional protection from law enforcement by distancing organized criminals from their illegal activities.
4. Opportunity. Opportunities for the conduct of illegal activities are certainly among the main reasons for organized crime involvement in legal activities -- the opportunity to skim profits from a legal activity, to launder money, to provide logistical services or marketing outlets, and as a front for other illegal activity are common examples.

### Business-Type Activities: Use of Services

It has long been recognized that a key to investigation and prosecution of organized criminal activities is a thorough understanding of the details of those activities. Like sophisticated and complicated activities in the legitimate business sector, organized criminal groups must carry out a variety of business-like functions in the conduct of their illegal activities. Whether involved in legal or illegal activities, organized criminal groups must:

- determine costs,
- set prices,
- market goods and services,
- purchase goods and services,
- maintain equipment,
- keep track of costs and accounts receivables,
- pay bills,
- keep records (in some retrievable form),
- collect payment for goods and services,
- arrange for handling and distribution of income,
- defend business and marketing plans, and defend markets from incursion by competitors (both legal and illegitimate),
- determine profits and arrange payments to owners for proportional shares of ownership of ventures,
- cope with government regulation or the equivalent of such regulation (law enforcement), and
- retain professional assistance, such as legal counsel and accounting services, or technical services such as computer expertise and electronic counter-surveillance expertise.

Although the range of such operations and services will be greater in the context of a legitimate business or activity, it is also important with respect to totally illegitimate activities.

In terms of the need for services parallel to those used in legitimate businesses, there is really no difference between organized criminal groups and legitimate businesses -- any service that a legitimate business may need might also be needed and utilized by

organized criminal groups in the conduct of legal or illegal activities and businesses. For example:

1. Legal services. Legal services are often the first thought of in any listing of legitimate services used by organized criminal groups, usually in the context of defense against criminal charges. However, the scope of legal services used by organized criminal groups go far beyond this narrow set of legal activities. It would be shortsighted to focus only on the role of attorneys and legal services as defense tools -- a more realistic and productive approach would be to consider all of the ways in which a sophisticated legitimate business enterprise would invoke the services of a broad range of legal practitioners, and to examine the needs and requirements of organized criminal groups against this backdrop. Such needs extend to counseling on taxes, property acquisition and sale, debt collection, legal requirements for establishing and conducting business in corporate form, labor laws, and antitrust laws, to name only a few. The attorney-client privilege has been exploited as a shield against law enforcement surveillance of on-going illegal activities.
2. Accounting. Accounting services are part and parcel of the series of financially oriented services that are heavily relied on by organized criminal groups, both at the highest levels of the group for financial planning and at the operational level for fiscal control and monitoring purposes that parallel those of legitimate business.
3. Banking. Banking is among the most important legitimate services needed and used by organized criminal groups, and such services are used in a variety of ways, including money laundering and lending abuses.
4. Bookkeeping. In addition to the more sophisticated aspects of business-related financial activities, such as accounting and banking, organized criminal activities at all levels make extensive use of more common bookkeeping services.
5. Travel and transportation services. Travel and transportation services (travel agencies, travel planners and other travel industry adjuncts such as parcel and air freight services) have been used for recruitment of personnel and to further the work of organized crime members and associates who may transport cash, drugs and merchandise.
6. Communications. In legitimate activities and businesses, organized criminal groups use the entire range of telecommunications services. In pursuit of illegal activities, organized criminal groups have begun to take advantage of more sophisticated communications technologies such as beeper services, cellular technology, and call forwarding and call waiting services of conventional telephone systems.
7. Real estate services. Organized criminal groups use a broad spectrum of real estate-related services, including leasing, nominee purchasing, the use of real estate professionals to identify properties for lease or purchase, and general exploitation of property acquisition for profit.

8. Courier and messenger services. These services have become more attractive to organized crime as alternatives to telephones, which are perceived to be far less secure means of communication.
9. Securities brokerage services. These services are often used for purposes analogous to traditional banking, including money laundering, transferral and custody. Securities accounts are also the vehicles for fraudulent activity, particularly with the collusion of an insider in a securities firm.
10. Health care services. Organized criminal group involvement in this area falls into two general categories: (1) personal medical services for members and associates, and (b) medical and dental services that are central to an illegal organized crime activity, such as a kickback scheme from a union health and welfare plan

In addition to other typical services that may be utilized by organized criminal groups, there are less generally observed that merit attention because they may be indicative of developing trends. For example:

1. Ohio state lottery. Organized criminal groups find unique ways to exploit private and public activities. In Ohio, for example, the state operated lottery is exploited as a no-cost service to organized crime's gambling ventures. The state sanctioned lottery in Ohio has become an effective competitor of organized crime numbers gambling. In an effort to re-capture market share, organized crime has taken the unusual step of running the numbers game as a parallel or "shadow" game to the state lottery, using the winning numbers generated by the state lottery and paying off on the same daily and weekly schedule (though the odds on the illegal game apparently are more favorable to players). In addition, numbers operators use the state lottery to "lay off" bets on any particular numbers that are heavily bet in the illegal game.
2. Quasi-financial services. In order to avoid currency reporting regulations and to lessen suspicion of legitimate banking institutions, organized criminal groups have begun to utilize the services of "quasi-financial" institutions, such as convenience stores and check cashing outlets and other non-banking businesses that offer a variety of financially-related services.
3. Electronic security services. Many organized criminal groups have utilized sophisticated electronic security services in order to avoid exposure to electronic surveillance.
4. Lobbying and public relations. Organized criminal groups have made special efforts to defuse law enforcement and media adversaries by attempts to change their public image. They make use of lobbying and public relations specialists, especially in the context of organized crime controlled trade associations and labor unions, and have exploited ethnic identity to portray adversary action as based on prejudice.
5. Intelligence. As is the case with legitimate businesses, organized criminal groups have often made use of intelligence services (including wiretapping,

eavesdropping and commercial industrial intelligence services) to assist their marketing efforts and to defend markets and territories against the incursion both of legitimate and illegitimate competitors.

6. Consultant services. Organized criminal groups make use of a wide variety of consulting services, usually for one of two distinct purposes:
  - a. to develop the expertise needed to establish a conduct a business enterprise, e.g., a union welfare or benefit fund, or a gambling operation; and
  - b. as a conduit for illegal schemes to siphon money out of a legitimate business enterprise.

In their fundamentals, organized criminal business-type activities do not differ in any significant or discernible way from legitimate business enterprises in terms of the need for an utilization of legitimate services. In the same way as legitimate businesses, organized criminal groups can be expected to make use of every service, draw upon every source of expertise, and rely on any information that will enable them to more competitively and profitably carry out their legal or illegal business-type activities.

### Business Functions in Organized Crime

In addition to examining the legal and illegal activities of organized criminal groups and the services such group use to implement activities, it is also important to consider the ways in which the component parts of organized criminal operations parallel those to be found in the operations of legitimate businesses -- to examine the "elements" of organized criminal business-type activities. These elements are important because they define the nature of criminal organizations, their depth, and the tactical steps they take to achieve strategic goals.

Examination of the data base revealed a number of elements that parallel similar functions in legitimate business, including security, market regulation/protection, intelligence, personnel policies/procedures, recruitment, training, debt collection services, product transportation and distribution, credit sales/flooring, and marketing/sales. The number of cases in the data base in which these elements were clearly addressed is high, especially in light of the fact that these aspects of criminal cases are not ordinarily set out in pleadings.

Closely related to elements that parallel legitimate business functions is the issue of organizational structure. The way in which a criminal group is structured may play an important role in determining the nature of the illegal activities in which it is involved. For example, a group that is loosely structured may not be able to successfully carry out activities that require a high degree of control over many different people, or coordination of the activities of different people. Structure appears to play an important role in the way that illegal activities are in fact carried out. Although organized criminal groups can generally be characterized as having centralized organizational structures, these structures can be more accurately defined as falling into one of three categories:

1. Flat centralization -- although still hierarchical, the focus of authority and responsibility is located in lower level units of the organization, which are

relatively free to pick and choose among the activities to which they devote themselves.

2. Pyramidal centralization -- an organization that is more characteristic of the traditional notions of a hierarchical organization, with clear lines of authority, responsibility and reporting up and down the levels of the organization.
3. Diffuse centralization -- a hybrid model in which criminal activities can be both centralized or decentralized depending on the level of the organization at which activities are undertaken and the nature of the activities themselves.

The key to these models of organizational structure has to do with the ways in which authority from the top of an organization is delegated to lower levels. In any criminal organization it is important for the head of the organization to delegate decision-making authority, both because he cannot maintain control over all aspects of illegal activities throughout the organization, and because he must try to insulate himself from the direct consequences of failure at lower levels. Success and survival in organized crime is dependent on walking the fine line between maintaining control of lower level criminal activities and avoiding responsibility for them.

In the same way as other businesses organizations, organized criminal groups operate to achieve a mix of objectives, and these objectives may in turn determine what activities these group engage in and the elements used in their implementation. Objectives of organized criminal business organizations are neither business-type activities or elements, but consideration of these objectives contributes to understanding why and how organized criminal groups embark on particular ventures. These objectives fall into three general classes:

1. Objectives that relate to what the organization expects to accomplish, or the benefits/profits to be gained:
  - a. allocate markets
  - b. eliminate competition
  - c. exercise influence/control over unions
  - d. exercise influence/control over an industry
  - e. cooperate with other criminal groups
2. Objectives that relate to defense against law enforcement that could threaten the existence of the group:
  - a. concealing non-legitimate activities from law enforcement
  - b. defense against law enforcement
3. Objectives that relate to the management of business operations:
  - a. provide operational structure and procedures

- b. cooperate with other criminal groups
- c. enforce discipline
- d. punish recklessness
- e. set rules
- f. arbitrate disputes
- g. offer and withhold jobs

To carry out activities in pursuit of these objectives, organized criminal groups make use of two kinds of assets. The first are assets in the accounting sense -- physical, tangible things of value, such as real and personal property. The second are assets that include the intangible characteristics, attributes, skills and expertise of individuals and the organization itself that are useful in the conduct both of illegal and legal activities. The latter category includes such intangible assets as:

1. Operational experience. This asset was the most frequent criminal asset reflected in the data base. However, investigators and prosecutors who participated in site visit interviews did not regard it as an important factor in the ability of organized criminal groups to engage in business-type activities. The latter position is difficult to reconcile with what is widely believed about the nature of organized criminal activities. While it is true that it may not take a great deal of operational experience to extort a weekly payment from a liquor store owner, other activities, such as corruption and control of a union, are far more sophisticated and call for a relatively high level of skill and technical understanding.
2. Connections within criminal networks. The single most important asset of organized crime may be its connections within a larger criminal network that includes both other organized criminal groups and non-organized crime criminal syndicates. To a large extent the concept of these connections goes hand-in-hand with the concept of operational experience -- connections within the criminal network "grease the wheels" of the criminal machine.
3. Access to legitimate channels/sources of money. The operation and maintenance of an organized criminal group requires a relatively steady flow of large sums of money necessary to finance everyday operations and to provide the capital for special-purpose illegal activities. In this regard, the situation of an organized criminal group is identical to that of any legitimate business -- without access to operating capital, business activities, whether legal or illegal, quickly grind to a halt.
4. Ability to use the power/authority of a legitimate organization. One common example of the use of such an asset is an organized criminal group's ability to infiltrate and control a labor union, although this asset is used in other situations. Regardless of the context, this asset is used to obtain money,



goods and/or services from the organization itself, and to use the organization to exert pressure on other businesses for the same purpose.

5. Capacity to corrupt private operations. This asset is recognized as one of the most important of those possessed by organized criminal groups. It frequently comes into play in a diverse set of activities ranging from loanshark pressure on a debtor to engage in arson to defraud an insurance company, to inducement and pressures on competitors to engage in bid-rigging on public and private contracts.
6. Reputation for violence. It is commonly felt that the single most important criminal asset possessed by organized crime is the willingness to threaten the use of violence, and the capability to actually follow through on such threats. For the most part, the actual violence employed by organized crime is relatively low level, which is seen across the spectrum of activities in which organized crime is involved. Higher levels of violence, such as murder, are extremely rare events (although they are much more frequent in drug trafficking circles), and are undertaken by organized crime only as a last resort. As an asset of an organized criminal group, a reputation for violence goes directly to the credibility of the organization, to its ability to control the behavior its members and associates, others with whom it does business, and those it is victimizing.
7. Capacity to corrupt agencies of government. Although it is argued that the capacity of organized crime to systematically corrupt agencies of government is overblown, this capacity may be the single most important element in the ability of organized criminal groups to exercise power. From this perspective, the exercise of power by organized criminal groups and the capacity to corrupt are part and parcel of the same set of functions. The willingness and ability of organized crime to become heavily involved in public corruption can play a central role in giving organized crime access to and control over activities in a particular arena. It provides significant regulatory advantages in terms of protecting a criminal enterprise or operation as it moves into a new sphere of illegal or legal activities, and to a large extent it can also be used to protect existing markets from competitors.

Intangible criminal assets are used by organized criminal groups in a manner strikingly parallel to that in which intangible assets are used in the legitimate sector. In the legitimate business sector it is not uncommon for a business to use its financial power to overwhelm competitors by market saturation, "dumping," price fixing and other forms of unfair competition. The power of management to hire and fire, and to wield the power inherent in employer references also represent the exercise of intangible but nonetheless very real power to intimidate. In exactly the same way, violence and the threat of violence are used to enforce discipline among members and associates, to regulate the status and access to business of contending criminal groups, and to influence the actions of those in the legitimate sector who interact with organized crime.

## Acquiring Ownership or Control of Business

In the same manner as legitimate businesses, organized criminal groups acquire ownership and control of businesses through purchase, investment, inheritance or as a reward and recognition for some needed ingredient or talent. The most obvious forms of ownership and control involve legal title in the case of a legitimate business, or from the fact of day-to-day operation of a venture where legal title is not appropriate, such as a loansharking or gambling business. One of the less obvious methods, but one that is still familiar to law enforcement is the use of a legal front or nominee to hold title for the true owner (often found in cases where there are regulatory restrictions on who may own or manage particular businesses). Beyond these, however, there are other methods of ownership and control that stretch conventional definitions of ownership. Among these are:

1. Debt. The owner of record of a business may have little actual control over it because he is in debt to an organized crime figure or group. Usually the debt will be callable at any time, giving the "equitable" owner the right to take the business over at any time, and the debt may also be a vehicle for extraction of profits from the indebted business. This method of indirect ownership is not unknown in legitimate business, though it is not likely to so harshly applied.
2. Contract. The owner of record of a business may have more control over it, but that control still is essentially limited by the interests of suppliers of goods and services. A business may be financed by such a supplier under terms and conditions that give significant power to the supplier regarding how the business will be operated. The franchise agreement is a typical tool for maintenance of indirect ownership, allowing the owner of record to assume all the public burdens of ownership but requiring operations that conform to strict rules and agreements as to extraction of profits.

Organized crime takeovers and acquisitions of business interests that are not direct purchases tend to occur in stages. First there will be a transaction not apparently related to takeover and control -- such as a loan or assistance with a particular business project. The second stage is pressure for repayment, or for acknowledgement of an obligation stemming from other forms of assistance rendered. Finally, there will be intimidation or the threat of withdrawal of some benefit conferred, coupled with a direct demand for transfer of an interest in the business.

One of the most important avenues for taking over a legitimate business is through loansharking -- capitalizing on a business' need for financing, and then using extortion to take over the business. Another major route for organized crime acquisition of ownership and control is through the use of unfair competition, where overt force or threats are rarely needed. Under these circumstances, the advantage of an organized criminal group lies in its ability to control labor unions and corrupt low level regulators and public officials, or in access to capital to finance operations at a loss until competitors are driven out. Organized criminal groups can simply out-compete their legitimate competitors.

Obviously, with respect to totally illegal businesses, such as loansharking, drug trafficking and illegal gambling, there is no purchase as such (though there may be investments to acquire part of the profits of such enterprises) when ownership or control

changes hands. Control may pass when one group achieves dominance over another through the application of overwhelming strength or a perception of willingness to ruthlessly apply such strength. In some instances, control of an organized criminal enterprise will pass from hand-to-hand in settlement of a dispute between two individuals, or as payment for particularly good performance in some other aspect of the group's activities.

The issue of the vulnerability of particular businesses to organized crime infiltration and control has been frequently mentioned in other work. From a different perspective, however, the stress on "vulnerability" may be misplaced because many businesses in which organized crime becomes involved are those where: (1) legitimate owners invite organized crime participation because they perceive some benefit from such participation,, (2) owners willingly acquiesce for the same reasons, or (3) organized criminal groups actually establish new businesses.

It has often been observed that organized crime figures are drawn to firms and organizations that deal largely in cash (e.g. for skimming opportunities) or that are strategically placed to be choke points. In these instances and others, it was noted that businesses with a cyclical nature are particularly vulnerable to takeovers of interests -- based on the need of their proprietors for loans that will tide them over business crises. In some instances businesses may go from job to job, such as construction firms, where capital is needed while waiting for payment on previous jobs. In others, businesses are seasonal in nature, such as the garment industry, with times of high activity, waiting for payment, and then periods of low activity while efforts are being made to stay alive and preparing for the next cycle. Other business areas that represent high level takeover opportunities are, as noted above, those that are chaotic and unregulated by the trades involved or government.

When organized crime figures involve themselves in business enterprises they must necessarily arrange for ways to extract the profits of the businesses. How such profits are extracted is a central concern for practitioners who gather and present evidence. In many, perhaps most instances, extraction of profits involves simple and crude steps. Gambling and loansharking are illegal in most instances, and the profits derived from such ventures are simply spent or laundered in some way before being turned to other uses. Where businesses are legitimate, but are cash intensive, such as vending machine operations, legal casino gambling, or pizza parlors, crude skimming is found as the method of extraction.

More sophisticated are the instances in which businesses have been created for the sole purpose of handling kickbacks and payoffs, e.g., as a pass-through for payoffs. This method is most familiar in connection with kickbacks from union welfare plan administration schemes, but it is also often used in dealings between organized crime (whether or not in a labor context) and private enterprises.

Where monies are actually put into a firm, in the form of equity in investment or loans, extraction of profits is a relatively simple matter, as in any legitimate business context -- in the form of dividends or debt repayments. But the situation becomes far more complex where interests are covert.

## Discussion

This study lends further credence to the view, often expressed but without empirical data of any kind, that the business operations of organized criminal groups are conducted, wherever possible, in a manner that parallels that of legitimate business ventures. This conclusion, it must be added, is based on examination of data that excludes groups exclusively engaged in drug trafficking.

Organized criminal groups show a level of operational sophistication comparable to that of their parallels in the private sector. Thus, a group engaging very heavily in prostitution services, will utilize resources like other service businesses of similar size, using double entry bookkeeping, and computers to keep profiles of customer orders and needs, as well as tracking of accounts payable and receivables. At the highest levels, there are complex agreements governing the relationship among cooperating organizations, divisions of territories and functions, and both vertical and horizontal monopolies. Tax responsibilities are taken into account, as are issues of organizational security, personnel recruitment and management, and close attention to market share.

The data gathered in this study confirm the importance of investigating and prosecuting for white-collar crime violations in proceeding against organized criminal groups. We arrive at this conclusion, notwithstanding the fact we selected our cases on a basis other than their representativeness, since we were seeking to inventory business-type activities or organized criminal groups rather than to develop some profile or model to characterize them. The body of embezzlement, fraud, breach of trust, and tax cases was truly impressive. Operations of both illegal and legal businesses involved the maintenance of false records, the submission of false claims, collusion between customers and suppliers, commercial bribery, kickbacks, vertical and horizontal monopolies, and -- as might be expected, omnipresent tax violations.

One is struck by the extent to which organized crime investigations involve time-consuming examinations of masses of records, and analysis along traditional lines of white-collar criminal inquiry. These inquiries were conducted in conjunction with close attention to more common criminal violations, such as extortion, murder, and threats of physical and economic harm.

The shaping of remedies for organized criminal behavior, especially in the developing enforcement areas of civil RICO actions, confirms the implicit acceptance of the white-collar crime enforcement approach -- recourse to restraining orders and judicial supervision of trading groups and labor union operations.

Clearly, more emphasis should be given to the recruitment and training of investigators with business orientations and expertise in the tracking and analysis of financial and other business records, and the orientation of both investigators and prosecutors to better deal with white-collar crime concepts. There is already a high level of expertise in many federal agencies, and in a number of state agencies that concentrate on organized crime. This expertise should be strengthened and expanded to include other federal, state, and local enforcement agencies.

In our interviews with investigators and prosecutors there was a strong consensus, though there were some who disagreed, with the proposition that the gambling business

was the central core of organized crime. It was said to provide a steady source of revenue, employment for organized crime members and associates, and capital for other organized crime legal and illegal business ventures. The importance attached to gambling was in distinct contrast with the violations charged in both the active and inactive cases in our data base.

When faced with this anomaly prosecutors and investigators almost uniformly took the position that gambling charges were not the best use of their resources. If these cases were pursued the likelihood of getting significant sentences or remedies is relatively low, it is difficult to develop broad comprehensive cases in this field, and the public (including juries and courts) are uncertain about how seriously to treat such "victimless" crimes. There is a distinct lack of public distaste and hostility to the practitioners of these activities, unless they can be combined with other, more "serious" offenses. The potential of such cases is even less where organized criminal groups have shifted from direct involvement to the "street tax" approach, allowing other groups to ply the gambling trade while paying "taxes" to organized crime. This problem is one that should be of concern to policy makers and analysts in the area of organized crime law enforcement, and consideration should be given to the options that may be available to develop such cases and to present them in a manner that evokes greater public concern. It may be difficult to do this, but such options should be regularly sought and reviewed.

## I. ORGANIZED CRIME AS BUSINESS

### Introduction

Organized crime has been intensively examined through many lenses over the past six decades. At times the focus has been simultaneously or separately on force and violence, organizational analysis, ethnic or cultural elements, public corruption, exploitation of particular economic or ethnic populations, the marketing of illicit services, the marketing of stolen or contraband merchandise, and the infiltration of legitimate business.

Significant thought has been given to the genesis of organized criminal groups, the typologies of such groups as they develop and mature, and to the economics and practices of their operations. These are exemplified by the work of Schelling,<sup>1</sup> Smith,<sup>2</sup> Moore,<sup>3</sup> Stier and Richards,<sup>4</sup> and Reuter and Rubenstein.<sup>5</sup> Comparatively little attention has been given to parallel aspects of new and emerging organized criminal groups, although there are encouraging developments in this area.<sup>6</sup>

This study examines the business-type activities of organized criminal groups, and derives from two sources: (1) the public record of indictments, court records, appellate briefs and the literature; and (2) interviews with law enforcement officials at federal and state levels. No confidential material was sought or obtained.

### Definition of Organized Crime

Much effort has been expended in the search for an acceptable definition of "organized crime." Much of the ground has been plowed since in 1970 the U.S. Department of Justice defined the term as:

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<sup>1</sup>Schelling, T.C. (1967). Economic Analysis of Organized Crime. In President's Commission on Law Enforcement and Criminal Justice, Task Force Report: Organized Crime, Appendix D: 114-126. Washington, D.C.: U.S. Government Printing Office 1967.

<sup>2</sup>Smith, D.C. (1978). Organized Crime and Entrepreneurship. International Journal of Criminology and Penology 6, 161-177.

<sup>3</sup>Moore, Mark H. Organized Crime as a Business Enterprise. In Major Issues in Organized Crime Control: Symposium Proceedings. Edelhertz, H. (ed). 1986:51-64.

<sup>4</sup>Stier, Edwin H. and Richards, Peter R. Strategic Decision Making in Organized Crime Control. In Major Issues in Organized Crime Control: Symposium Proceedings. Edelhertz, H. (ed). 1986:65-80.

<sup>5</sup>Reuter, P. and Rubenstein, J. (1972). Illegal Gambling in New York: A Case Study in the Operation, Structure, and Regulation of an Illegal Market. Washington, D.C.: National Institute of Justice 1972.

<sup>6</sup>Kleiman, Mark. Organize Crime and Drug Abuse Control. Major Issues in Organized Crime Control: Symposium Proceedings (Edelhertz, H (Ed.). Washington, D.C.: U.S. Government Printing Office, 1987; Reuter, Peter. Quantity Illusions and Paradoxes of Drug Interdiction: Federal Intervention into Vice Policy. Santa Monica, CA: The Rand Corporation, 1989.

. . . . all illegal activities engaged in by members of criminal syndicates operative through the United States and all illegal activities engaged in by know associates and confederates of such members.<sup>7</sup>

There are a plethora of other definitions that differ based on the approaches of the authors, and on whether one adopts a legal, academic orientation or law enforcement orientation.<sup>8</sup> From the perspective of this work, it is not necessary to adopt any specific definition, though we were mindful of the Maltz description of the "criminal group" that was central to the thinking of the President's Commission on Organized Crime:<sup>9</sup>

The criminal group is a continuing, structured collectivity of persons who utilize criminality, violence and a willingness to corrupt in order to gain and maintain power and profit. The characteristics of the criminal group, which must be evidenced concurrently, are: continuity, structure, criminality, violence, membership based on a common denominator, a willingness to corrupt and a power/profit goal.

The reason no specific definition of organized crime is adopted for the purpose of this study is that the data collected reflect, in almost all instances, the judgments of law enforcement agencies on what behaviors they chose to prosecute under this rubric. Since the agencies chosen as the sources of data were those most actively engaged in organized crime prosecutions, with special units dedicated to these efforts, we did not question their judgments, though some might differ with them. If a federal strike force, or a United States Attorneys Office, or the office of a state attorney general chose to designate a case an "organized crime" case for internal purposes, this characterization is accepted.

For purposes of this study, all cases submitted by agencies were not made part of our active data base. There were overwhelming numbers of drug trafficking indictments that focused narrowly on the business-type activities of drug trafficking groups; the

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<sup>7</sup>Attorney General of the United States, Order No. 431-70.

<sup>8</sup>It is common to differentiate between a "syndicate" (which is typical of organized crime groups), and "enterprise" (which is more typical of narcotics trafficking groups), and a "venture" (which is a particular criminal ct engaged in by a member or members of a syndicate). A syndicate is typically pyramidal, with many low level entrepreneurs making money on a variety of different activities and passing a percentage of the money up the pyramid. Higher levels of the pyramid provide support and government-like functions down to the lower levels. A syndicate is more a governmental model for organizational behavior and activity. On the other hand, an enterprise more closely resembles the traditional corporation -- an enterprise is defined as a group engaged in continuous businesses and activities involving the delivery of illicit goods and services. All power and authority is vested in the highest levels of the enterprise and orders flow down to lower level workers. Decisions are not made at low levels, but follow a carefully laid out chain-or-command down from the top. Blakey, G. Robert, Ronald Goldstock and Charles H. Rogovin. Rackets Bureaus: Investigation and Prosecution of Organized Crime. National Institute of Law Enforcement and Criminal Justice (1978). Washington, D.C.: U.S. Government Printing Office.

<sup>9</sup>President's Commission on Organized Crime. The Impact: Organized Crime Today. Washington, D.C.: U.S. Government Printing Office, 1986, at p. 25, based on Maltz, Michael D., Toward Defining Organized Crime, in Alexander, Herbert E. and Caiden, Gerald E. (Eds.), The Politics and Economics of Organized Crime. Lexington, MA: Lexington Books, 1985.

business-type activities involved in drug trafficking are therefore addressed only when part of broader, conglomerate criminal group pursuits. Many cases were substantively duplicative of others, and since this work is primarily descriptive it was not considered necessary to include them in our active data base. Some state agencies used the civil remedies of state RICO statutes<sup>10</sup> primarily as anti-fraud or consumer protection vehicles. Their data were not considered appropriate for this study, although these state operations clearly have strong justifications and undoubtedly provide a worthwhile law enforcement service.

### Definition of Business-Type Activities

This study deals with the business-type activities of organized criminal groups and the elements of these activities. It is therefore essential to define these terms.

Organized criminal groups engage in a wide variety of activities, some of which can be characterized as illegal, many as legal. Among the illegal are, first and foremost, those that involve the supplying of goods and services to a significant part of the public, e.g., gambling, loansharking, narcotics and other contraband, prostitution and pornography. Legal activities would include the operation of commonly accepted business and organizational enterprises, whether these businesses were originally acquired or control achieved through extortion or violence or by purchase using the fruits of crime, e.g., trade unions, real estate, restaurants, trucking companies, and waste disposal enterprises. There are also mixed illegal-legal enterprises such as trade unions that are bases for extortion, theft and criminal exploitation of members' assets, and companies that dominate their markets through a combination of intimidation and collusion.

Notwithstanding the illegal, legal or mixed character of organized criminal enterprises, one may expect to see parallels to the acquisition and operation of what are ordinarily thought of as "legitimate" business organizations and trade associations. Organized criminal operations may be structured along vertical lines, with control over many steps from production to retail sales. Or they may be horizontal in nature, with agreements, ownership and control extending over similar enterprises serving the same customers or clients. Certain classes of licit or illicit enterprises may be particularly attractive to organized criminal groups, just as they are to corporate entrepreneurs and raiders, because they involve little capital to operate and generate a high cash flow, or because they are strategically located for maximum impact on related ventures -- such as trucking or control of the docks. Other organizations are attractive because they represent large aggregations of capital, "cash cows" that can be milked with relative impunity, such as union treasuries and union welfare and benefit funds.

The business-type activities of organized crime are those legal, illegal and mixed ventures acquired, controlled and operated by organized criminal groups that (1) in structure or operations parallel those of legitimate organizations, or (2) are engaged in serving legitimate markets for goods or services. Excluded from this definition are activities that do not involve the delivery or sale of goods or services, or have no legitimate

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<sup>10</sup>The parent federal statute is the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961 et seq. There are now 29 states that have enacted their own versions, and enactments are under serious consideration in a number of other states.



parallel -- such as organized theft, shakedowns or extortions, and the sale of murder services.

Illegal and mixed ventures inevitably involve operational elements that parallel those of the legitimate business and trade organizations. These include such functions as purchases, marketing,<sup>11</sup> employment and personnel management, relationships within trade groups, acquisition of professional services, and attempts to influence public bodies with regulatory or enforcement powers. As to the latter, one might define public corruption as lobbying with an interesting spin.

### Nature and Significance of the Issues

The Resilience of Organized Criminal Groups. Traditional organized criminal groups (Cosa Nostra) have displayed extraordinary resilience,<sup>12</sup> even in the face of repeated, successful prosecution of the top levels of their leadership. These criminal organizations appear to take on a life of their own, not wholly dependent on the personalities that control them at one time or another. Their leadership has grown up and been reinforced by a culture that supports continuity of operations. In some instances they provide what are perceived to be valuable services for their constituencies, such as rationality and "order" imposed on what otherwise might be highly competitive or anarchic business arenas. There are few self-perceived "victims" among those who benefit from market allocations and collusive bidding, or, for example, among the businesses that were "regulated" by organized crime in the absence of governmental regulation at New York City's Fulton Fish Market.<sup>13</sup>

Members of organized crime-dominated unions have shown little determination to shake off their leadership, either because of fear of physical or economic harm, or because they have some participatory share in the benefits of domination of work sites. There are also vast constituencies, or customers, in other "victimless" areas, which involve the sale and delivery of illicit services and products, such as gambling, loans and narcotics.

The existence of these constituencies, together with the absence of widespread awareness of the broader implications of organized criminal group operations, such as public corruption, derivative crime such as that flowing from the need to service drug and gambling habits, and diversion of resources from productive or consumer channels, makes it most difficult to marshal the public support that is vital to assuring continuous and consistent provision of resources to combat these organized criminal groups.

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<sup>11</sup>In an interesting application of marketing, one organized crime figure (Ianniello) who was heavily involved in carting actually marketed carting services for other carting companies, in a sense working as an agent for these other companies. He received a percentage of the contracts thus obtained as compensation for his services. Personal communication.

<sup>12</sup>Major Issues in Organized Crime Control: Symposium Proceedings (Edelhertz, H (Ed.). Washington, D.C.: U.S. Government Printing Office, 1987.

<sup>13</sup>Consent Judgment in *United States v. Local 359 et al.* in the United States District Court, Southern District of New York, 87 CIV 7351 (TPG).

Non-traditional organized criminal groups, and new and emerging groups, have similar constituencies that continue to demand goods and services, notwithstanding the interruptions and inconveniences that result from the arrest and incarceration of members or associates at leadership and other levels.

**Weakening the Resilience of Organized Criminal Groups.** In recent years there have developed new and affirmative forces and instrumentalities that have as their objective the crippling or destruction of criminal organizations themselves and not just the conviction and incarceration of individual members. These forces are the dedicated units within prosecutive agencies on local, state and federal levels. Many local prosecutive offices, such as that in New York County, have such units. State attorneys general offices, such as those in Arizona, California and New Jersey, have such dedicated units. The New York Organized Crime Task Force has fielded an experienced and sophisticated prosecutive effort, noteworthy for its cooperative, non-possessive turf orientation.<sup>14</sup> On the federal level there are 14 strike forces under the management of the Organized Crime and Racketeering Section, Criminal Division, U.S. Department of Justice, units within United States Attorneys Offices of which the principal exemplar is that in the Southern District of New York, and special sections at headquarters and in field offices of the Federal Bureau of Investigation. The Pennsylvania Crime Commission is an unusual state agency that has no specific police powers, but does have responsibility for observation, analysis and preliminary inquiries into sophisticated criminal activities, particularly those that involve organized crime and public corruption. Such forces have the advantage of being able to give continuous attention the criminal groups in their jurisdictions. More important, perhaps, is that their exposure to the organized crime problem over time and their institutional memories<sup>15</sup> have created a common orientation -- characterized by dissatisfaction with the routine of prosecution and conviction, and the substitution of highly directed actions aimed at depriving organized criminal groups of their ability to function at a significant level.

The instrumentalities of these law enforcement agencies are the statutes that facilitate and validate their efforts. The principal instrumentalities at this time are the federal and

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<sup>14</sup>The New York Organized Crime Task Force has on several occasions contributed to major prosecutive efforts undertaken by the United States Attorney for the Southern District of New York.

<sup>15</sup>It is part of the "folk wisdom" of law enforcement and justice research that prosecutors' offices are a revolving door, with young lawyers coming in, spending a very few years, and then going on to profitable private practices. The long-time career orientation of investigators have been juxtaposed to the temporary involvement of prosecutors. The possibility of institutional memories in investigative agencies such as the FBI are recognized, but those of prosecutive agencies have not been. In the course of the interviews conducted in this study, in federal strike forces, and on the state level, a different picture has emerged. At the federal level there is a central core of career prosecutors in the Organized Crime and Racketeering Section. In the Office of the United States Attorney for the Southern District of New York there is turnover, but there is every sign that its prosecutors are there for the long pull. A career orientation seems predominant at state levels as well, at the New York Organized Crime Task Force, and in the offices of attorneys general in Arizona, California and New Jersey.

state RICO statutes that make it possible to strike at organizations, and not simply at individuals. Rudolph Giuliani described the reach of the federal statute:<sup>16</sup>

. . . . The purpose of RICO was to broaden the prosecutor's focus by providing for a single prosecution of an entire multidefendant organized crime group for all of its many and diverse criminal activities. The RICO statute criminalizes the patterns of diverse conduct characteristic of organized crime, and authorizes the seizure of the proceeds and profits of illegal enterprises. . . .

Giuliani strongly argues that RICO is "the only criminal statute that enables the Government to present a jury with the whole picture of how an enterprise, such as an organized crime family, operates."<sup>17</sup>

Other federal and state statutes have been used to great effect to obtain convictions; RICO is not the only instrumentality available for obtaining forfeitures, or proving the existence of broad criminal enterprises. In New Jersey, for example, the state conspiracy statute is being used in a manner quite parallel to RICO. Federal statutes proscribing tax evasion, firearms violations various interstate transportation crimes, labor violations and state statutes directed against usury and extortion are powerful tools, particularly valuable when used in combination with RICO statutes.

Key to prosecution under RICO is proof of the existence of a criminal "enterprise," and the conduct of the enterprise's affairs through "a pattern of racketeering activity or collection of unlawful debt."<sup>18</sup> A "pattern of racketeering activity" requires a showing of "at least two acts of racketeering activity, one of which occurred . . . within ten years . . .

after the commission of a prior act of racketeering activity."<sup>19</sup> "Acts of racketeering" include, by definition,<sup>20</sup> many crimes that involve conventional theft, violence or the threat of violence such as murder and kidnapping and extortion. Most germane to the issue of business-type activities, however, is the great stress placed on two categories of crime: (1) white-collar crimes that must be proved through the laying out of methods of the crimes themselves, through testimony as to how the business of the crime was conducted, including recourse to all available records, and (2) crimes involving the sale of illegitimate goods and services, which involve methods parallel to those of any other business --

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<sup>16</sup>Giuliani, Rudolph W. Legal Remedies for Attacking Organized Crime, in Major Issues in Organized Crime Control: Symposium Proceedings (Edelhertz, H (Ed.). Washington, D.C.: U.S. Government Printing Office, 1987, at p. 105.

<sup>17</sup>Giuliani, Rudolph W. Legal Remedies for Attacking Organized Crime, in Major Issues in Organized Crime Control: Symposium Proceedings (Edelhertz, H (Ed.). Washington, D.C.: U.S. Government Printing Office, 1987, at p. 106.

<sup>18</sup>18 U.S.C. 1961 et seq.

<sup>19</sup>18 U.S.C. 1965(5).

<sup>20</sup>18 U.S.C. 1961(1).

purchasing, marketing, record keeping, custody and disbursement of funds, accounting for and distribution of profits, obtaining and use of professional services such as accounting and legal services, and investment of proceeds of enterprises in other (illegal or legal) business ventures.

Investigators and prosecutors most active in law enforcement directed against organized crime have necessarily been compelled to look carefully at the business-type activities of organized criminal groups, examining these organizations just as if they were ordinary business enterprises. The current series of federal prosecutions brought by the United States Attorney in the Southern District of New York, and those successfully completed within the past few years, clearly illustrate this. They involved analysis of such businesses as the controlled marketing of construction materials and construction contracting in New York City,<sup>21</sup> and the organized crime-regulated complex business interactions of New York City's Fulton Fish Market.<sup>22</sup> Parallel analyses of solid waste disposal were made New Jersey by the New Jersey Division of Criminal Justice. All federal strike forces, and state agencies such as the New York Organized Crime Task Force have engaged in such analyses -- which are crucial to proof of "enterprise" and a "pattern of racketeering."

Analyses that focus on business-type operations and their elements are even more critical to the remedies that give meaning and effect to successful prosecution and civil litigation -- such actions as seizures and forfeitures of properties, and injunctions to remove members of organized criminal groups from positions of power and influence in business and labor organizations. These analyses address the ways in which the properties and assets belonging to criminal groups and their members are used, the paths of the proceeds of organized crime, and the ways in which positions in organized crime endeavors make it possible to carry out their criminal objectives.

This study therefore concentrated on examination of the business-type activities of organized criminal groups and the elements involved in their implementation, all in the context of other facets of management and organizational objectives of this group. As noted above, this study looked to the public record and interviews with law enforcement staff -- to inventory and describe these business-type activities for use by the enforcement and research communities.

### Guide to the Report

This report proceeds through a series of examinations of the data for the light that can be shed on organized crime as a business, whether engaged in illicit or legal ventures, describing business-type activities, the needs of organized criminal groups in pursuing these activities, and considers the operational elements involved in these pursuits.

Cases referred to in the report are identified by the case number assigned from our data base rather than by the docket numbers of criminal indictments or civil complaints.

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<sup>21</sup> *United States v. Salerno*, NY-518; New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

<sup>22</sup> Consent Judgment in *United States v. Local 359 et al.* in the United States District Court, Southern District of New York, 87 CIV 7351 (TPG).

Thus, the identification number for cases cited here contain the name of the state in which the indictment or complaint was returned. Appendix 1 contains a listing of all indictments and civil complaints in the data base. This Appendix also shows the United States District in which federal indictments and complaints were returned, the name of the Organized Crime Strike Force where appropriate and, in the case of indictments in state courts, the attorney general's office responsible for the indictment. Access to this information will assist practitioners seeking to tap the experience of an agency or office with respect to a cited case, as well as researchers who wish to further inquire about a cited case.

Appendix 2 outlines the methodology employed in this study.

Appendix 3 contains the names of members of the project's Advisory Panel.

Appendix 4 is a copy of the data collection form used to code active cases in the data base.

Appendix 5 is a copy of the site visit interview protocol.

## II. BUSINESS TYPE ACTIVITIES: ILLEGAL ACTIVITY

### Introduction

Many scholars have examined organized criminal group activity from the perspective of its parallel to activities of legitimate business enterprises.<sup>1</sup> It has been argued that organized criminal groups are compelled by the nature of their activities to engage in white-collar crime in a manner similar to legitimate businesses, and that insights derived from this perspective can assist investigation and prosecution of organized crime.<sup>2</sup> The present research follows logically from this prior work to develop an inventory of the business-type activities in which organized criminal groups engage, to increase our understanding of the ways in which such activities are implemented and used.

For purposes of this study "business-type activities," whether they occur in illicit or legitimate settings, refer to the activities of organized criminal groups and individuals that parallel similar activities of legitimate businesses or individuals. Business-type activities consist of two components: (1) "activities," which refer to the general set of substantive business operations in which organized criminal groups or businesses may be engaged. Such activities can be either illegal (such as prostitution, loansharking, or labor racketeering) or legal (such as construction, transportation, or union administration); and (2) "elements," which refer to the operations used to implement or carry out activities. These elements may be patently illegal with no parallel or similarity to operations of legitimate business (such as murder or extortion by threat of violence).<sup>3</sup> Or they may parallel legal operations (such as use of computers to track and assist on-going legitimate or illegitimate business operations). The elements of interest to this study are the latter.

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<sup>1</sup>Reuter, P., Rubenstein, J. and Wynn, S. Racketeering in Legitimate Industries: Two Case Studies. Executive Summary, National Institute of Justice (January, 1986); Schelling, T.C. (1967). Economic Analysis of Organized Crime. In President's Commission on Law Enforcement and Criminal Justice, Task Force Report: Organized Crime, Appendix D: 114-126. Washington, D.C.: U.S. Government Printing Office; Smith, D.C. (1978). Paragons, Pariahs, and Pirates: A Spectrum-Based Theory of Enterprise. Crime and Delinquency 26 (July), 358-386; Smith, D.C. (1978). Organized Crime and Entrepreneurship. International Journal of Criminology and Penology 6, 161-177; Anderson, A.G. (1979). The Business of Organized Crime: A Cosa Nostra Family. Stanford, CA: Hoover Institution Press; Reuter, P. and Rubenstein, J. (1972). Illegal Gambling in New York: A Case Study in the Operation, Structure, and Regulation of an Illegal Market. Washington, D.C.: National Institute of Justice; Moore, M.H. (1977). Buy and Bust: The Effective Regulation of an Illicit Market in Heroin. Lexington, MA: D.C. Heath.

<sup>2</sup>Edelhertz, H., E. Stotland, M. Walsh, and M. Weinberg. (1977). The Investigation and Prosecution of White-Collar Crime: A Manual for Law Enforcement Agencies. Washington, D.C.: U.S. Government Printing Office; Edelhertz, H. et al. (1984) pp. 18-21. The Containment of Organized Crime. Lexington, MA: D.C. Heath.

<sup>3</sup>Patently illegal activities will be referred to in this report only to the extent that they are factors that must necessarily be considered as influences on implementation of organized crime business-type activities and the selection of elements that make these activities possible.

Business-type activities form a continuum described by the following anchors:

1. strictly legal business,
2. legal business that is a conduit or vehicle for illegal activity,
3. illegal business that is a conduit or vehicle for legal activity, and
4. strictly illegal business.

It is often difficult, if not impossible, to clearly distinguish between illegal and legal activities of organized criminal groups. Many illegal activities take place under the cover of legal activities, for example loansharking marketed through the mechanisms of an otherwise legitimate check cashing service. Much of the illegal activity noted in the project data base could thus be described under either the rubric of illegal or legal activities. Where the goods and services involved in organized criminal group operations are illegal, we have addressed them under the rubric of illegal goods and services. Where the goods and services are part of the legal market, though marketed through patterns of illegal activity, we have addressed them under the rubric of legal goods and services. An example of the latter would be the bid-rigging, collusive domination by organized criminal groups of all concrete construction contracts involving over \$2 million in the Borough of Manhattan in New York City.<sup>4</sup>

The material in this section describes the business-type activities (both activities and elements) of organized crime, showing the roles that such activities play in organized criminal activity, and how such activities are utilized by organized criminal groups. We begin with a discussion of illegal activities, including results of our analysis of indictments, complaints and other supporting public record data, and insights obtained from our interviews with organized crime investigators and prosecutors.<sup>5</sup> Finally, this section concludes with a discussion of mixed legal-illegal activities and the relationships between the two.

### Offenses Charged

One way to understand the nature of the illegal activities of organized crime is to look at the offenses that are charged in organized crime indictments and complaints. For this project a data base was developed consisting of 165 organized crime cases selected for the light they shed on organized crime business-type activities and the elements of those activities. These 165 cases were selected because they contributed to our inventory of business-type activities, and of the implementational elements of these activities -- they are descriptive and not intended to be a representative sample of all of the cases of the enforcement units that provided indictments and complaints to us. Many cases that were

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<sup>4</sup>New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June, 1987.

<sup>5</sup>Although the information in this section derives from the project data base of cases, related public record materials and the literature, it should be recognized that there are many instances in which cases are not prosecuted because of lack of evidence, doubts about whether the criminal standard of proof can be met or for other causes.

important, in and of themselves, and represented substantial law enforcement efforts, were omitted because they were duplicative of others. Similarly, as noted above, indictments of defendants and groups engaged solely in drug trafficking were omitted.

Table 2.1 shows the frequency with which various illegal activities were charged in the indictments and complaints that make up the project data base.

**Table 2.1**  
**FREQUENCY OF OFFENSES CHARGED**

Offense	Frequency	Offense	Frequency
Conspiracy	95	Gambling - Numbers	06
Racketeering	68	Fraud Against the Government	06
Fraud	50	Threat or Use of Violence	05
False Statements/Filings	37	Firearms Violations	05
Tax Violations	34	Possession of Drugs	05
Extortion	28	Threat of Financial or Economic Harm	04
Obstruction of Justice	24	Public Corruption	04
Usury	19	Leader of Organized Crime	03
Theft	17	Witness Tampering	03
Embezzlement/Conversion	17	Counterfeit Access Device (e.g. credit card)	02
Kickbacks	16	Bid-Rigging	02
Interstate Transportation in Aid of Racketeering	13	Securities Fraud	02
Gambling - Sports	12	Murder	02
Perjury	11	Forgery	02
Gambling - Other	11	Aggravated Assault	01
Unlawful Debt Collection	10	Arson	01
Drug Trafficking	09	Counterfeiting	01
Currency Violation	08	Criminal Contempt	01
Possession of Stolen Property	07	Fencing	01
Bribery	07	Interstate Transportation of Gambling Devices	01
Interstate Transportation of Stolen Property	06	Interstate Transportation of Forged Securities	01

What we see in Table 2.1 is the wide range of charges that prosecutors in different jurisdictions have selected to act on, based on the information and evidence brought to them by their investigators. These data represent the activities of the central core of the federal organized crime enforcement effort, consisting of the 14 federal Strike Forces and the United States Attorney for the Southern District of New York, and state efforts in Arizona, New Jersey, and New York. The focus on these jurisdictions is not meant to indicate that there are not extensive efforts in other prosecutors' offices directed against organized criminal group activity. For example, significant organized crime cases resulted from the activities of United States Attorneys in Eastern District of Pennsylvania (Philadelphia) and the Eastern District of New York (Brooklyn), which were not part of the Strike Force



activities in these jurisdictions and in the Offices of the Attorneys General of the states of California, New Mexico and Oregon. Prosecutions are often not counted in the category of "organized crime," because they are not prosecuted by dedicated units that maintain lists and statistics of organized crime cases.<sup>6</sup> Many other state and local agencies are also engaged in efforts directed against organized crime, though their work was not included in our data.

There is nothing in the listing of the offenses charged shown in Table 2.1 that should surprise any knowledgeable observer of the organized crime scene; all of the expected violations appear. White-collar crime violations (fraud, false statements, tax, usury, embezzlement, currency violations, bid-rigging, securities fraud) constitute about one-third of the violations, with more to be found in the interstices of racketeering and conspiracy charges. More conventional criminal activities, such as those reflected in charges of extortion and the threat of violence, clearly played an intertwining role with these white-collar crime violations.

Gambling and gambling-related charges appear in 31 cases in the data base, approximately five percent of the total number of times offenses were charged in the 165 cases in the project data base. This should not be interpreted to mean that gambling was not a significant factor in more of these cases. Many of the loansharking and extortion violations in the data base were gambling-related, that is, gamblers borrow to finance their habits and then are subject to threats when they do not pay up. Gambling also is often a causal factor in tax violations, and gambling elements are present in conspiracy cases.

The dominant charges used by units dedicated to enforcement against organized crime are more likely to involve fraud, embezzlements, labor violations, usury, bid-rigging, and kickbacks. This is particularly true of the major RICO indictments, though some of them do include gambling counts among the predicate crimes.

All this is in sharp contrast to the importance given to the gambling business of organized criminal groups by most, but not all, of the leaders of dedicated organized crime enforcement units whom we interviewed. They made the point that gambling was the steady earner for such groups, the easiest over which organized criminal groups are able to exert control, and that gambling ventures serve a ready and voluntary public. They went on to make the point that pure gambling cases are not a productive use of resources because juries are less willing to convict for such "victimless" crimes and that, in any event, sentences for gambling violations are relatively lenient and do not particularly interfere with the continuation of the gambling business. Thus, gambling operations, per se, were not likely to be found to any great extent among the substantive violations charged in the indictments, notwithstanding these enforcement agency beliefs.<sup>7</sup>

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<sup>6</sup>Many organized crime cases are prosecuted by local prosecutors and are not marked or listed as organized crime prosecutions, though they may be so identified in prosecutors' public reports. For example, it was part of the experience of the principal investigator of this study, when he was Chief of the Fraud Section of the Criminal Division of the U.S. Dept. of Justice, that the defendants in a large group of "routine" prosecutions for fraudulent abuse of federally insured home improvement loans in one locality, were (not coincidentally) members of organized criminal groups using the same modus operandi.

<sup>7</sup>Many feel that gambling and other victimless crimes are the core of organized criminal activities. For example, without illegal gambling "organized crime would be in deep hurt. It is the 'victimless' crime that brings in the steady income." Yet the criminal statutes that focus on these crimes are the most difficult to marshal in an

## Other Illegal Activity

Table 2.1, which is confined to actual charged offenses, should be examined in conjunction with Table 2.2, below. Using charged offenses as the only guide to the actual illegal activities of individual organized crime figures or their organizations has severe limitations. Because of the problems of obtaining testimonial or other evidence, and law enforcement judgments about whether some charges are more likely to be successful than others, and particular prosecutive objectives,<sup>8</sup> indictments often reflect only a small part of the criminal activities of defendants. For example, what appears on the surface to be a drug transaction may in fact be the repayment of a loansharking debt.<sup>9</sup> What appears to be a tax violation may reflect any crime or combination of crimes. What appears to be a firearms violation may in fact derive from drug trafficking. Thus, reliance on charged offenses alone, does not give an accurate picture of the illegal activities of any individual or group.

Table 2.2 shows the frequency of other illegal activity for from the data base. Other illegal activities are those that were not included as separate criminal or civil charges in the indictments and complaints (e.g., predicate offenses in RICO indictments, or illegal activities cited in support of conspiracy charges), but were apparent from the face of the indictment or complaint itself.

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effective way because the public is least concerned about them and the penalties are the least harsh. The paradox is that going after the key central activities of organized crime is viewed as the least effective way of breaking up or containing organized criminal group activity. Personal communication.

<sup>8</sup>In some instances a prosecutor, often with the full support of the cooperating investigative agency or agencies, will decide that the objective of crippling an on-going organized group operation or ridding a business sphere of organized crime influence should take precedence over a full, comprehensive case that addresses all major criminal operations, and will exercise prosecutive discretion to move forward with a more limited criminal case or by civil complaint. See the Fulton Fish Market Case (Consent Judgment in *United States v. Local 359 et al.* in the United States District Court, Southern District of New York 87 CIV 7351 [TPG]) and note the civil focus of the major organized crime unit in the New Jersey Attorney General's Office.

<sup>9</sup>Personal communication.

Table 2.2

FREQUENCY OF OFFENSES DESCRIBED BUT NOT CHARGED IN PLEADINGS

Illegal Activity	Frequency	Illegal Activity	Frequency
Threat or Use of Violence	44	Drug Trafficking	09
Fraud	39	Money Laundering	08
Unlawful Debt Collection	24	Conspiracy	08
Extortion	24	Possession of Stolen Property	07
Threat of Financial or Economic Harm	19	Racketeering	06
Obstruction of Justice	19	Gambling - Sports	04
False Statements or Filings	17	Possession of Drugs	03
Bribery	17	Currency Violation	03
Union Corruption	16	Fraud Against the Government	03
Usury	15	Fencing	03
Forgery	15	Interstate Transportation in Aid of Racketeering	03
Murder	14	Pornography	03
Theft	13	Bid-Rigging	02
Kickbacks	13	Counterfeit access device (e.g. credit card) violations	02
Prostitution	12	Interstate Transportation of Stolen Property	02
Gambling - Other	12	Arson	01
Loansharking	11	Perjury	01
Embezzlement and Conversion	10	Possession of Contraband	01
Tax Violations	09	Possession of Weapons	01
Public Corruption	09	Securities Fraud	01
Gambling - Numbers	09		

The data in Table 2.2 are consistent with the overall picture of illegal activity in which organized criminal groups are involved. One important pattern that should be pointed out is the prevalence of white-collar criminal activities that appear among the most frequent illegal activities that are described but not charged in the indictments and complaints in the data base. Approximately one-third of the cases involved what can be roughly described as white-collar crimes. Greater representation of such white-collar crimes might emerge if one were to more closely examine the content of other charges, such as racketeering, unlawful debt collection and forgery, which were not included in this tally.

Tables 2.1 and 2.2, it must be repeated, reflect findings derived from a group of cases prosecuted by the jurisdictions that cooperated in this study. Even if these cases were a representative sample of all organized crime cases prosecuted in those jurisdictions, which they are not, these public record materials would only partially inform us about the

full scope of the business-type activities that organized criminal groups undertake in pursuit of their illegal operations. These data, and the interviews conducted in the jurisdictions, provide a starting point for an inventory of such business-type activities but tell us little about the relative proportions of the activities in the tables, since the frequencies noted refer only to charged offenses and other illegal activities described in the data base.

The patterns shown in Table 2.1 are consistent with the information obtained from site visits that project staff made to investigative and prosecutive agencies. The site visits suggested that there were differences among the various jurisdictions in terms of the frequency with which various charges are brought in organized crime cases.<sup>10</sup> The obvious reasons for such differences are that:

1. organized criminal groups differ in their character and operations,
2. these groups may find particular activities more attractive than others,
3. there are different levels of intensity of organized criminal group competitiveness in different jurisdictions,
4. they respond to different markets for illegal goods and services,
5. their ethnic and cultural genesis may differ as well as the ethnic and culturally diverse environments in which they operate, and
6. the climate of law enforcement will differ, depending on levels of local enforcement and of political corruption.

These differences, and commonalities among jurisdictions were explored in some detail in the project site visits. The tables themselves should be considered in the light of these other considerations.

**Factors Related to Cases and Evidence.** In general, three factors account for the charges contained in organized crime indictments and complaints:

1. the charges reflect the activities in which organized criminal groups engage.
2. the charges are the most likely to be detected and proved; and
3. law enforcement agencies find it difficult to detect and charge other activities. This factor reflects law enforcement manpower limitations, the difficulties of obtaining testimony because of the fear or self-interest of possible cooperative witnesses, and the increasing sophistication of organized criminal groups.<sup>11</sup>

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<sup>10</sup>Because of the number of jurisdictions represented in the project data base and the relatively small number of cases in each jurisdiction, the data in Table 2.1 and Table 2.2 were not broken down by jurisdiction.

<sup>11</sup>Personal communication.

With the advent of RICO legislation a new consensus is developing among jurisdictions that affects the choice of matters for case development and the way in which criminal group behaviors are charged. A RICO charge, in which predicate offenses cover a multitude of legal activities over a span of time (including matters that would otherwise be barred by the statute of limitations), is becoming the preferred weapon because "it is simply the most devastating instrument that can be used against organized crime groups and activities,<sup>12</sup> a view shared by many jurisdictions.

**The Role of Investigative Agencies.** Another major factor in determining the offenses that will ultimately be charged in an organized crime indictment or complaint is the initiating role of investigative agencies. Prosecutors, to a very large extent, are limited in their actions by what is presented to them by investigators, and by how investigators respond to their requests for investigative action.

This is not to denigrate the very significant levels of cooperation that exist between prosecutors and investigators. Generally the level of cooperation is very high. Notwithstanding this, however, cases are developed through two major avenues. The first is the investigation of an offense or series of offenses that initially comes to the attention of the investigative agency from a citizen complaint, from an informant, from information developed in the course of investigating another crime, or as the result of an affirmative search for organized criminal group activity. The second is prosecutor-initiated; dedicated organized crime units are well aware of what is going on in their jurisdictions, they are kept informed in some detail by briefings from investigative agencies, and they too are recipients of citizen complaints. The two avenues are not mutually exclusive -- cases will often be triggered, in the first instance, by the shared explorations, conjectures, and expectations of prosecutive and investigative agencies.

**Prosecutorial Priorities.** Prosecutors will often disagree with each other about priorities and how resources are to be allocated. Investigators must make similar decisions. In the interviews conducted as part of this research it became clear that even in a field-level office with sub-units, there were differing philosophies about whether to focus on conviction of individual defendants as opposed to tailoring investigations and prosecutions to strike at the continued existence of organizations. And these different approaches were supported, in one instance, by a superior who fully understood and approved the divergent approaches of his sub-units; it was not a decision by default.<sup>13</sup>

These priorities are felt at various stages of the law enforcement process. They determine the extent to which affirmative searches for violations drive decisions to initiate investigations, as opposed to reactions to informant, citizen complaint, or other detection sources. At the initial stages of detection, priorities may determine whether resources are to be allocated to one case, or group of cases, rather than to others.

It is important to consider the manner in which investigations move into the prosecutive stream in order to appreciate the meaning of prosecutive statistics, and to

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<sup>12</sup>Personal communication.

<sup>13</sup>Personal communication.

understand that they are representative of what law enforcement agencies do, rather than of the behavior sought to be detected, punished, and controlled by law enforcement action. Thus, although the 165 cases that are the active component of this project's data base were selected for their descriptive merit rather than their statistical representation of organized crime indictments and complaints, the inventory of business-type activities they present is an acceptable descriptive (but not statistical) representation of law enforcement action with respect to organized criminal activity.

The patterns of charged offenses are also in the process of change in some jurisdictions. Traditionally, law enforcement agencies targeted gambling and loansharking because these were regarded as the the stable, and staple day-to-day core ventures of organized criminal groups, which produced steady and reliable income at relatively low risk, and which provided the capital for other ventures. Recently, however, there has been a considerable effort to expand the scope of enforcement to include more sophisticated illegal activities. As a result, in some jurisdictions there are two major threads to the enforcement bow. The first encompasses the on-going, traditional law enforcement efforts against organized crime -- meaning that if a crime is detected and investigated, prosecution proceeds without regard to the egregiousness of the offense, and without regard to the relationship between the individual offender and the larger picture of organized crime. The second thread consists of a large investigation and a series of contemporaneous prosecutions to support a major RICO indictment against the leadership of organized crime. The simultaneous conduct of both sets of activities has, as noted above, generated some conflict that has yet to be worked out, but is seen as a natural consequence of the transition to a new mode of enforcement against organized crime.<sup>14</sup>

### Relationships Among Illegal Activities

When information on criminal activity is first obtained by law enforcement agencies it is somewhat disjointed. For example, an informant, or a complaining citizen may know only one part of scheme or schemes or crimes in which an organized crime defendant or group is engaged. It is clear, however, that behaviors described in criminal statutes more often than not will occur in combination when in the organized crime context. Criminal behaviors may be simultaneous, interactive and mutually supportive, and can be common responses to a range of opportunities available in the communities where organized criminal groups operate. An interesting example of such behaviors can be seen in *United States v. Brown*,<sup>15</sup> where the criminal group:

1. obtained and created false identification and documentation that was used for a variety of illegal purposes.
2. stole and counterfeited credit cards in order to obtain goods and cash.<sup>16</sup>

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<sup>14</sup>Personal communication.

<sup>15</sup>DC-53.

<sup>16</sup>The indictment does not describe how these goods were converted to cash. It can be assumed that some of the goods were used by the group while others were fenced.

3. opened numerous checking accounts, both in their own names and in false names, which were used to write worthless checks for cash and goods.
4. obtained stolen, forged and counterfeit Treasury checks, which were often used to temporarily inflate balances in checking accounts that were then siphoned off.
5. used and sold blank airline tickets that had been obtained by members of the group who had obtained employment in travel agencies.
6. fraudulently obtained and sold rental cars that had been rented using false credit cards.
7. used false documentation to obtain welfare benefits.
8. obtained and used stolen telephone credit cards and credit card numbers.
9. had members of the group seek out employment in situations in which they would have access to goods that were then stolen or embezzled.

However, the important question is whether such activities exist in synergy with one another? It is important to the law enforcement, policy making, and research communities to understand what activities commonly occur in combination, and why. From the perspective of law enforcement agencies it is important to extrapolate from bits and pieces of information in hand, what the full scope of a group's criminal activity may be -- in order to focus the search for evidence on the other parts of the picture, and to provide a predicate for a comprehensive law enforcement response to the activity of the putative defendants. This is all the more important in light of the increased number of options provided by criminal and civil RICO remedies. From the perspective of the policy maker it is important to decisions on priorities and consequent allocation of resources. From the research community perspective such knowledge is important in order to understand the nature and the behaviors of organized criminal groups.

These patterns or combinations of illegal activity were addressed in the two major parts of our research -- the indictments and complaints that comprised our 165 active cases, and the interviews conducted in our site visits to prosecutive and investigative agencies. From our examination of the litigation pleadings, and peripheral information we obtained from other sources on these cases, we were able to identify some charges that occur together with a high degree of frequency. These data were enriched by our interaction with law enforcement officials in the course of our site visits.

Organized crime indictments customarily charge more than one type of statutory violation. This is less likely to occur where the principal violation involves taxes or firearms offenses, though such offenses are more common where the principal offense charged involves the violation of some other criminal statute. In such instances the tax violations are likely to be toward the end of indictments, though they are no less potent a tool for that reason.

In organized crime indictments it is common to find other criminal behaviors that, while not charged as specific statutory violations, tell us much more about the underlying premises of the case. A typical example is a conspiracy charge accompanied by descriptions of overt acts that may be clearly proscribed by other criminal statutes, or predicate crimes listed in a RICO indictment to show a pattern of racketeering. Table 2.3 shows the joint frequencies of statutory crimes and civil wrongs cited in the indictments and complaints that constitute the project data base, combined with these other criminal or wrongful behaviors. Behaviors most closely related to white-collar crimes, and the business-type activities most closely identified with them, constitute the major portion of the relationships.

Table 2.3 also illustrates the wide range of criminal behaviors that can be examined in the course of an organized crime investigation and the drafting of a subsequent indictment. Embezzlement, bribery, extortion and fraud charges provide the greatest opportunity for examining the combinations of illegal activities that may appear in a potential case.

In some instances, Table 2.3 shows what might be expected on the basis of investigative and prosecutorial experiences.<sup>17</sup> Not surprisingly, the threat of violence, in some form, is the most likely criminal behavior to be found in conjunction with other organized crime activities. Similarly, white-collar crimes bulk large along these same dimensions.

Table 2.3 shows what law enforcement professionals have found to be practical multiple foci for investigative and prosecutive purposes, including some that at first view appear to be counter-intuitive, e.g., that in 9 instances there were combinations of fraud and threats of violence referred to in a single indictment -- fraud (which is typically a crime of deception) is not commonly associated with violence.<sup>18</sup>

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<sup>17</sup>It should be kept in mind that the data base consists of 165 out of a total of 601 indictments and complaints received and reviewed. There are certainly other combinations than those those in our active data base from which Table 2.3 is derived.

<sup>18</sup>There may be a simple explanation for the appearance of this combination in some cases. For example, in the same indictments defendants can be charged with defrauding an organization, and also with intimidating its members or owners.



Table 2.3

COMBINATION OF OFFENSES CHARGED AND OTHER ILLEGAL ACTIVITY

Offense Charged	Other Illegal Activity Frequency	OTHER ILLEGAL ACTIVITY																		
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	NUMBER	NAME
		45	42	24	24	20	19	18	18	17	17	15	15	13	13	12	11	10		
Conspiracy	95	23	23	12	16	12	14	9	7	12	9	9	7	9	11	9	8	6	1	Threat of Violence
Racketeering	68	26*	17	18	15	13*	11	15*	8	6	9	11*	9	12	6	8	4	9	2	Fraud
Fraud	51	9	16*	4	4	5	5	8	1	6*	9	3	2	6	4	1	0	4	3	Unlawful Debt Collection
False Statements	37	5*	10	3	4	5*	2	4	0	2	5	1	5	3	3	3	4	2	4	Extortion
Tax Violations	34	8	9	4	2	3	5	5	1	8*	0**	2	3	2	2	5	0	0	5	Threat of Financial Harm
Extortion	29	14*	6*	5	14*	9*	5	8*	4*	3	7*	5	2	6*	2	1	5*	4	6	Obstruction of Justice
Obstruction	25	7	5	5	2	4	2	4	0	2	1	2	4	0	2	1	2	0	7	Bribery
Gambling	24	13*	2	9*	6	4	4	2	6*	0	3	4	4*	0	3	1	5*	1	8	Gambling
Usury	20	17*	5	11*	4	6*	5*	4	4	1*	4	3	4	1	3	1	3	2	9	False Statements
Embezzlement	17	2	4	2	2	2	1	4	1	0	3	0	2	4	0	0	3	3	10	Union Corruption
Kickbacks	17	3	4	2	2	2	0	5*	1	0	6*	1	0	5*	0	0	1	4*	11	Murder
Theft	16	4	5*	2	3	0	3	5*	1	2	1	1	2	3	4*	1	1	0	12	Usury
ITAR	13	4	1	1	2	1	1	2	0	0	1	1	0	1	0	7*	0	1	13	Kickbacks
Debt Collection	11	7*	1	5*	4*	5*	1	5*	3*	1	3	3*	2	1	1	1	2	2	14	Theft
Perjury	11	1	2	0	0	0	1	1	5*	0	2	0	0	0	2	2	0	0	15	Prostitution
																			16	Loansharking
																			17	Embezzlement
		*-Frequency Higher Than Expected																		
		**-Frequency Lower Than Expected																		

Table 2.3 raises other questions, such as why our data base shows no instances in which tax violations were charged in indictments that focused on union corruption; one might expect tax violations in such cases.<sup>19</sup> Should more attention be given by law enforcement to the tax enforcement potential in cases directed against union corruption? There may be good reasons not to, but Table 2.3 suggests that this and other questions should be asked.<sup>20</sup>

Those we interviewed in our site visits were, without exception, very experienced prosecutors and investigators. The prosecutors were directors of dedicated organized crime prosecutive units, and their chief aides. The investigators were supervisors of dedicated units within their agencies, such as FBI units within field offices, also specializing in organized crime enforcement. We asked them to identify charges that occur together with a high degree of frequency. The most common responses were:

1. gambling-loansharking: gamblers generally need money and the loansharks are there to provide it. In the law enforcement community at least, this relationship is described as "well-known and well-documented,"<sup>21</sup> and it is "common knowledge and a fact of criminal life that the two should be found together."<sup>22</sup>

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<sup>19</sup>Overall, the data base contained a large number of cases involving tax violations, but in most such cases it was not possible from the face of the indictment to determine what specific activities lay behind the tax violations. Tax violations can occur across the gamut of illegal and legal activities discussed in this section. However, they also come up in unusual circumstances -- in one situation the spouse of the owner of a professional football team was convicted of tax evasion. She obtained 2,700 tickets to a Superbowl game and sold them through organized crime connections for a profit of approximately \$750,000. Statement of Bruce V. Milburn (Internal Revenue Service). Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate, p. 989. April 11-12, 1988. Washington, D.C.: U.S. Government Printing Offices.

<sup>20</sup>The President's Commission on Organized Crime assembled indictment data by defendants on labor union cases, from the U.S. Department of Justice, the Federal Bureau of Investigation, the U.S. Department of Labor, and the Internal Revenue Service. Although the actual number of indictments was not clear from the tabular presentation of the data, it did encompass 742 defendants. These indictments were all-inclusive and did not differentiate between those matters in which organized crime was involved and where it was not. This data showed that 81 defendants were charged with tax violations. This information should be differentiated from the organized crime-specific information in the project data base. President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions (October 1985). Washington, D.C.: U.S. Government Printing Office, p. 183 et seq.

<sup>21</sup>Personal communication.

<sup>22</sup>Personal communication. Indicative of this relationship are three companion cases from California (*United States v. Angelo*, CA-672; *United States v. Spalliero*, CA-676; and *United States v. Spillone*, CA-678). An interesting twist here is that one of the stated objectives of the organization was to take over, manage and control all loansharking and bookmaking operations in southern California. Independent loansharks were told that no one could continue to operate without the permission of and payment to the organization. The organization used a wholesale grocery business and a chain of pizza restaurants as the base of its loansharking operations, and sought control of a licensed gambling casino in its efforts to monopolize both legal and illegal gambling.

The loansharking gambling connection also can be exploited in other ways. In *United States v. Cocchiaro*, FL-430, defendants extorted additional payments (for "protection" against the debt collection efforts of other defendants) from gamblers indebted to a loansharking operation

2. gambling-tax violations: in some jurisdictions, tax charges are nearly always brought in conjunction with gambling violations, especially if the IRS is involved in the investigation from the onset and if the investigation and prosecution of the tax charges have IRS approval.<sup>23</sup> Tax charges are often the only way to get convictions in gambling cases because a jury may be predisposed to the attitude that gambling is "okay, everyone does it so why should this defendant be hammered for it."<sup>24</sup> The addition of the tax charge presents the jury with an offense that is clearly illegal and toward which jurors may have special animosity. Some prosecutors feel that the inclusion of the tax charge often facilitates conviction on both the tax and gambling charges.<sup>25</sup>
3. extortion-gambling: again the relationship here is straightforward -- an individual who has accumulated a large gambling debt is an obvious target for extortion.
4. extortion-union corruption: corrupt union officials are in a position to use the power of the union against businesses and individuals for purposes of extortion.

### Specific Illegal Activities and Practices

From examination of the pleadings gathered in the course of this study, from information obtained during site visit interviews, and from discussions in the literature, substantial descriptive material was obtained on a variety of illegal activities. Most of this material covered activities well known to even the most casual observer of the organized crime scene, such as loansharking, gambling, and extortion. This section does not go over this old, familiar ground, but directs special attention to unique, special aspects of these and other activities that came to our attention.

**Street Taxes.** In a number of jurisdictions interviewees stressed the importance of the practice of imposing a "street tax."<sup>26</sup> The street tax is a levy imposed by organized

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<sup>23</sup>Personal communication.

<sup>24</sup>Personal communication.

<sup>25</sup>Personal communication.

<sup>26</sup>Specific experience with the street tax is to be found in the federal Strike Forces in Chicago and Philadelphia, and the FBI field offices in these cities. In Chicago the taxing system is neither a finely structured nor systematic revenue collection mechanism. Although the "word" on the street is that the tax is assessed at 20% of gross revenues, there really is no set amount. In one case a business was initially assessed a set fee, which was later changed to \$1,000 per month plus 50% of the gross profits. Street crews generally rely on the word of the business owner for determination of the gross profits, all the time pressing and arguing for an increase in the amount of gross profit the owner claims. Sometimes street crews will cite anecdotal evidence of increased business or patronage as a way of convincing the owner to admit to a larger gross profit, or to justify the imposition of a larger assessment. In a series of cases involving street tax assessment on prostitution operations, there is direct evidence that crew members demanded and got access to the operation's financial records to assess the tax. Personal communication.

criminal groups on illegal activities within what they perceive to be their "turf." From one perspective this can be construed to be just another form of extortion, imposed on illegal operators. Our interviews suggested, however, that there are broader ramifications to this practice.

It appears that there was a realization, at the highest level of organized criminal groups, that they could not run all of the businesses from which they could reap profits, but that they would stand to gain immensely through the imposition of a "tax." Organized crime members and associates were thought to be less efficient at running the street enterprises, yet thought to be superb "tax collectors."<sup>27</sup>

Where the street tax is prevalent, entry into geographic areas and into specific illegal activities is generally permitted without hindrance. Enterprising illegal entrepreneurs can open up shop and conduct their businesses, just so long as the proprietors of these ventures pay the required street tax, a percentage of gross receipts, to organized criminal groups.

There were indications that the street tax represented benefits to established organized criminal groups beyond that of reaping greater profits more efficiently. In the first instance it represents one way of extending markets without expansion of mob personnel to service these illegal markets. New and aspiring entrepreneurs have greater opportunity to start operations without challenging the authority and power of the established groups collecting these taxes, creating greater gross revenues for organized criminal groups. How this relationship plays out over time, with the growth of new emerging groups who might attempt to take over the tax collection function, or to work without this levy, remains to be seen.

**Loansharking.** The standard, conventional loansharking violation emerges from the financial need of a borrower, arising out of business debt or cash flow problems, or personal problems such as gambling. Money is borrowed at usurious and illegal rates of interest, and bad debt collection practices are normally based on the threat or use of violence. We have found, however, that loansharking schemes have expanded well beyond such simple patterns.<sup>28</sup> Three general loansharking approaches are worthy of special attention

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<sup>27</sup>In some instances, skill at tax collecting is facilitated through corruption of law enforcement. There are cases involving street tax assessment where corrupt law enforcement officials have participated in enforcing collections. One of the most common ways was for a law enforcement officer to conduct a raid on an establishment, seizing books and records as evidence. While in the officers custody, the books and records would be inspected by organized crime tax collectors for purposes of determining revenue and profit. Once that determination had been made, charges would be dropped against the business. Personal communication.

<sup>28</sup>For example, in *United States v. Vitale*, CN-492, an interesting arrangement was made that would allow a loanshark debtor to forego repayment -- he was to assist the loansharks in negotiating a stolen and forged check in the amount of \$8,350,000 -- an effort that was ultimately unsuccessful.

(1) **Bridge Loans.** In one instance there was a pattern of enveigling victims by promising them conventional financing at legal rates.<sup>29</sup> Then, when the victims were about to take the money, on which they were relying, they were suddenly told that the regular financing was unavailable, but that they could get "emergency money" at interest rates of 2.5% per month and more. There are indications in the indictment that these loans were often described to the victims as temporary financing (bridge loans) while waiting for the permanent financing, which of course never came through. At this point borrowers were hooked. There is good reason to believe that these victims at the outset would not have subjected themselves to conventional loansharking.<sup>30</sup>

The actual loans in this scheme had two tiers. The victims would sign loan documents showing legitimate rates of interest, and often provide collateral, through mortgages or other securities. They would make regular payments by check for the legitimate portion of the loan, but had to pay the "vig" or illegitimate portion in cash. There were also attempts here, through various guises, to get control of legitimate enterprises. For example, in one loan involving a restaurant, the promised financing was conditioned on giving an equity interest along with the regular loanshark interest rates.<sup>31</sup>

(2) **Loanshark use of legal procedures as leverage.** Loansharking operations have also threatened recourse to the legal system for repayment of loans. In one case, a rug merchant borrowed \$30,000 from loansharks, giving them a second mortgage on this house to secure the loan.<sup>32</sup> When he expressed reluctance to repay the full amount, the loansharks threatened to foreclose on the second mortgage.<sup>33</sup>

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<sup>29</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at p. 8.

<sup>30</sup>In this case, after promising a conventional loan of \$3.5 million for a real estate venture in Texas, the loansharks gave a \$100,000 loan at an interest rate of 1.5% per week -- but they also took the first month's interest off, plus \$46,000 in expenses. The arithmetic in the indictment may or may not be correct, but the victim took on a loan obligation of \$100,000 for which he received \$30,000. In this particular instance the victims, after being threatened with death and with harm to their families, transferred property to the loansharks to pay off the loan. *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at pp. 15-16. . See also, *United States v. Rotondo*, NY-83.

<sup>31</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at p. 18.

<sup>32</sup>Two of the loansharks visited the borrower's store and took two oriental rugs valued at \$14,000 as additional security for the loan. When the merchant wanted to finally pay off the loan he asked for his two rugs back and was told that one of them had been stolen. When he balked at repayment of the full amount because of the missing rugs he was told that if he did not repay the full amount he would have to continue payments of the usurious interest rate.

<sup>33</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at pp. 16-17.

Another instance in this same case involved a dress shop,<sup>34</sup> with the usual promises of legitimate financing and other support (provision of a line of credit) in order to induce the victim into taking a loan from the loanshark. One of the victims pledged her house and the assets of her business, presumably on the legitimate tier of the loan. One of the loansharks almost immediately sold the mortgage and mortgage note on the victim's house, and from the indictment it is clear that the loansharks were quite willing to foreclose on the home and the assets of the business.

(3) **Check Cashing Services.** Another illustration of innovative loansharking marketing comes from Chicago, where check cashing services are used as a loanshark base. The customers of these services generally have low incomes but have sources of regular income and are therefore good targets for expansion of loanshark markets. The scheme involved obtaining, for example, \$100, but turning over a \$120 check to the check cashing service, with the \$120 check to be returned to the victim within one week. The pattern of supposed legality was to charge \$20 per week as a "service charge for holding the checks."

These cases illustrate new attempts to expand loansharking markets, and effort by loansharks to create a patina of "legality" for these criminal activities.

**Arson.** The conventional context in which arson arises involves simple insurance fraud, the destruction of a structure as a means of intimidation, or to cover up a crime of violence.<sup>35</sup>

Arson can be seen as a potential form of collateral for loans or business financing. In one case borrowers were pressed to agree to the burning their own business premises to pay off loans.<sup>36</sup> Arson as a basic form of financing collateral, and a marketing adjunct in the pizza business, is described by the Pennsylvania Crime Commission. In order to induce potential buyers to purchase and operate pizza parlors, the non-cash portion of the purchase price was financed at usurious rates, but it was implied to the buyers that they did not have to worry about customary loanshark collection practices:

. . . . Tocco suggested that they go to loansharks. He said that they would have to pay \$150,000 for a one year loan of \$100,000.

Tocco said that if they defaulted on the loan, the loansharks would simply take over the shop. Tocco also advised . . . . that the loanshark might burn the shop to collect insurance money.<sup>37</sup>

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<sup>34</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at pp. 19-20.

<sup>35</sup>Arson should also be examined in its relationship to loansharking and to white-collar crimes.

<sup>36</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206 S.D.N.Y., 2nd Cir. (1985) at pp. 19-20.

<sup>37</sup>Pennsylvania Crime Commission. A Decade of Organized Crime: 1980 Report. St. Davids, PA 1980, at p. 222.

Any indication of arson, when having even the most peripheral relationships to other criminal behaviors, should be looked at imaginatively. Arson may intersect with obstruction of justice violations, when records are burned to destroy evidence or frustrate a grand jury subpoena. Arson may intersect with fraud operations stemming from franchises. Most generally, arson should be seen as an organized crime tool for liquidating debt, whether pre-planned, as in the instance reported by the Pennsylvania Crime Commission, or as a final collection procedure.

**White-Collar Crime.** Organized criminal groups are inevitably drawn to the area of white-collar crime. As stated by mob-lawyer Marvin Light, when he testified before the President's Commission on Organized Crime:<sup>38</sup>

. . . . they got into white-collar crime which is more lucrative; it's harder for law enforcement to catch them at.

The entire spectrum of white-collar crime is represented in the indictments that were part of this project's data base, the interviews we conducted with law enforcement agencies, and the literature. One of the major crime families in New York was described as having special expertise in the negotiation of stolen securities.<sup>39</sup> Bid-rigging in government contracts appeared frequently. Common "garden variety" consumer frauds are frequent. Bankruptcy frauds, or bust-outs, are resorted to both as a means of generating organized crime income and, through intimidation of loanshark victims, as a way of recovering loanshark debts. The cases in this project's data base that involved union corruption were rife with embezzlement charges, violations of fiduciary obligations, and illegal exploitation of union welfare and benefit funds.

Our analysis of federal indictment/conviction statistics dealing with convictions in labor cases makes this point startlingly clear. The staff of the President's Commission on Organized Crime brought together information on labor union-related criminal offenses for the period August, 1979 through August, 1984.<sup>40</sup> These cases cannot be specifically identified as involving organized crime, but the significant representation of organized criminal groups in these statistics cannot be ignored. These statistics listed charges against 742 defendants, by violations and not by numbers of counts. The white-collar crimes these defendants were charged with are shown in Table 2.4, and do not include the very large number of cases in which false filings were involved.

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<sup>38</sup> President's Commission on Organized Crime (April 1986). The Impact: Organized Crime Today. Washington, D.C.: U.S. Government Printing Office, at p. 325.

<sup>39</sup> Personal communication.

<sup>40</sup> President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions, (October 1985). Washington, D.C.: U.S. Government Printing Office, p. 183 et seq.

**Table 2.4**

**FREQUENCY OF WHITE-COLLAR  
VIOLATIONS: PRESIDENT'S COMMISSION**

<b>White-Collar Violations Charged</b>	<b>Number of Violations</b>
Embezzlement	356
Fraud	101
Tax Violations	81
Fiduciary Violations	9
Fraud Against the Government	5

The 165 active cases in the project data base contained the following numbers of cases in which there were white-collar crimes specifically charged, or described as part of the offenses charged:

**Table 2.5**

**FREQUENCY OF WHITE-COLLAR  
VIOLATIONS: BTA PROJECT DATA BASE**

<b>White-Collar Violations Charged</b>	<b>Number of Violations</b>
General Fraud	89
Tax Violations	43
Kickbacks	29
Embezzlement/Conversion	27
Fraud Against the Government	9
Currency Violations	8
Money Laundering	8
Bid-Rigging	4
Securities Fraud	3

We collected indictments and complaints on an additional 436 organized crime cases (the inactive case data base) that were not analyzed to the same extent as the 165 cases in the active data base. The inactive cases were coded only for the one principal criminal behavior that characterized them. For example, if the charge in a case was a tax violation but the underlying substance of the charge was loansharking, the underlying illegal activity was coded. Combining them with the above tables for the 165 cases, we found the following totals for cases in which these white-collar crimes were either charged or described as part of the offenses charged:



Table 2.6

**FREQUENCY OF WHITE-COLLAR CHARGES  
AND ILLEGAL ACTIVITIES: BTA PROJECT  
DATA BASE**

<b>White-Collar Charges and Illegal Activities</b>	<b>Number of Violations</b>
General Fraud	141
Tax Violations	84
Kickbacks	30
Fraud Against the Government	30
Embezzlement/Conversion	27
Currency Violations	8
Money Laundering	8
Bid-Rigging	6
Securities Fraud	6

Thus, the project data, as well as the information obtained by the President's Commission on Organized Crime gives further support to the hypothesis that white-collar crimes are inextricably intertwined with the other operations of organized criminal groups, and that the skills and techniques of white-collar crime investigation and prosecution are key resources in practical day-to-day enforcement efforts against these groups.<sup>41</sup>

**Labor Abuses.** Organized criminal activities based on exploitation of control of labor organizations were a significant part of the project case data base, the materials obtained in the project interviews, and the literature reviewed in this study. Here, perhaps more than in any other portion of our work, it was most difficult to conceptually distinguish between "illegal" and "legal" activities. There is clearly nothing illegal about managing and controlling a union, per se. But exploiting that control for the purpose of committing crimes against the union or its membership is obviously illegal. Embezzlement of union funds is the most obvious example of such exploitation. Another is the criminal use of power to mulct the membership through exploitation of pension and benefit funds. There also is the use of union control directed against non-union member victims -- extortion directed against employers. Other examples, where the abuses are not directed against the membership but where power is used to enforce market allocations and generally facilitate monopoly activity, are discussed below.

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<sup>41</sup>Edelhertz, H. Stotland, E. Walsh, M. and Weinberg, M. The Investigation of White-Collar Crime: A Manual for Law Enforcement Agencies. Washington, D.C.: U.S. Government Printing Office at pp 18-21; Edelhertz, H. Cole, R.J. and Berk, B. (1984). The Containment of Organized Crime. Lexington, MA: D.C. Heath.

As might be expected, the great majority of illegal activities in the labor field fall into conventional forms of exploitation of union control, covering such areas as:

1. embezzlement of union funds,
2. kickbacks from suppliers of goods and services including pension and benefit fund management,
3. kickbacks from those borrowing from pension funds,
4. establishing ventures to supply medical health products and services to union members at union expense,
5. fraudulent claims against union benefit funds, and
6. "sweetheart contracts" between unions and employers --- and sometimes between unions and employers who were union officers or in whom union officers had equity interests.

These are all well represented in the cases that are part of the project data base, and were discussed at some length in the project interviews.

We will not plow this familiar ground. No new or fresh insights emerged, though these cases drove home the callous disregard and contempt evidenced for their membership by union leaders who were part of or under the control of organized criminal groups. This callousness extended to the point where a union and its membership were bought and sold like livestock<sup>42</sup>

Worthy of special attention, however, are a number of sophisticated schemes that were represented among the indictments and complaints in the project data base, derived from our interviews, and from the literature. These involved leveraging union power to create monopolies and restrain competition, and as a factor in regulation of a field of otherwise legitimate activity. Particularly noteworthy, and somewhat outside the common abuses referred to above, is the exploitation of union memberships through special devices: "labor leasing" and "desk drawer contracts."

(1) **Labor Leasing.** Labor leasing is a pernicious practice that is patterned on a common legitimate parallel in the manpower field, providing employers with skilled or unskilled labor to fill temporary needs. It was described by Steven J. Trott, then Assistant Attorney General of the Criminal Division of the U.S. Department of Justice, as:<sup>43</sup>

. . . The fraudulent scheme involved keeping labor costs down and silencing aggrieved employees by ceasing business operations at

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<sup>42</sup>Racketeering in the United States. Record of Hearing VI (April 22-24), Washington, D.C.: U.S. Government Printing Office at p. 362.

<sup>43</sup>Address to Conference on Employment Law, Federal Bar Association. U.S. Department of Justice Press Release, February 6, 1986.

particular locations, terminating employees' jobs, and then restarting new businesses at the same locations. At the same time managers conceal from employees the true identity of the new businesses which, of course, paid considerably lower wages and benefits. At some locations the union official representing the terminated employees was bribed to overlook this flagrant violation of employees' rights under their labor contracts. . . .

Labor leasing received considerable attention from the President's Commission on Organized Crime.<sup>44</sup> At its hearings, the nature of this activity was more expansively outlined. The typical situation was described as one in which a company does not want to be troubled by unions, or by outspoken or troublesome employees. At this point arrangements are made with the labor contractor, who is likely to be part of an organized criminal group with influence over unions in the particular industry. The employer fires its unionized work force. Then the same or other employees are hired by the labor contractor. Because it is involved in the scheme, the union raises no objection. The labor contractor handles all labor relations, and receives a percentage of the labor costs, usually about 10%. Testimony before the President's Commission also indicated that the workers generally received no pension or other benefits under the new arrangements.

Who dealt with these labor contractors? The testimony indicated that many major corporations who claimed they knew nothing about the scheme and were acting in good faith were the beneficiaries of the activities of one specific organized group: Shell Oil, American Cyanamid, International Paper, Crown Zellerbach, Inland Container, Coca-Cola, J.C. Penney Stores, G.A.F., Continental Can, and others.<sup>45</sup> This is not the only indication that the legitimate business sector seemed to willingly cooperate. As pointed out by Commissioner Eugene H. Methvin:<sup>46</sup>

Corporate preferences for corrupt unions and racketeers is not a thing of the past. As this Commission's probe of the Teamster- Mafia "connection" in the Boffa labor leasing scheme shows, major Fortune 500 companies even today have demonstrated a preference for deals with racket unions and mobsters if they can return their workers to "plantation days" wages and working conditions and disregard costly job safety requirements.

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<sup>44</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. October, 1985. Washington, D.C.: U.S. Government Printing Office, at pp. 18,28.

<sup>45</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. October, 1985. Washington, D.C.: U.S. Government Printing Office, at pp. 18,28.

<sup>46</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. October, 1985. Washington, D.C.: U.S. Government Printing Office, at pp. 28.

(2) **Desk Drawer Contracts.** Desk drawer contracts are an interesting variation on the theme of "sweetheart contracts," in which employers and union officials join together to confine and limit workers' rights.<sup>47</sup> Asked about desk drawer contracts by the President's Commission on Organized Crime, a union president cooperating with the Commission, described it in this way:<sup>48</sup>

An umbrella or desk drawer contract is a contract that the employer of a particular company would call the union and say that he would like to place his people under a union and would like a favorable contract. And generally a contract would be drawn in most cases with the terms that the employer wants. And it would never be implemented. It would just sit in a file or drawer somewhere until such time as the employees would either look for a union to represent them or some union would come around and start organizing and at that time the employer would pull out this contract and say "I'm already represented by a union." And in effect, it would be a bar from the union coming in to organize them because the people are already represented. So in effect, an employer could pick up considerable amount of time without having to pay any union benefits and yet still be covered by a contract (Emphasis supplied).

The cooperating union official is in a no-lose situation with a desk drawer contract. He is compensated by the employer. In the words of this same union president:<sup>49</sup>

. . . . it was something I didn't have to organize. . . . I wouldn't have to deal directly with the members. I would be brought in from the back door from the employer. And I would ultimately gain the membership. And they would pay dues, but I didn't have to go out and solicit them.

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<sup>47</sup>One case, *United States v. Santoro*, NY-366, suggests a counterpart to a desk drawer contract, but one in which pressure on the employer is exerted from the union side. In *Santoro*, a union extorted money and valuable commercial and contractual rights from an air freight company by threatening to enforce the provisions of a collective bargaining agreement with the company. The use of such a threat implies that under normal circumstances the contract was not enforced, i.e., was kept in the unions "desk drawer."

A unique aspect of *Santoro* involved the use of inside information as the basis for trading in the stock of two companies engaged in merger negotiations. The union was used to threaten two companies to the merger -- payoffs and contract concessions to keep the union from preventing the completion of the merger. An insider at one of the companies was providing information that was subsequently used by the union president and others as the basis for decisions regarding the purchase and sale of stock in the two companies.

<sup>48</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. October, 1985. Washington, D.C.: U.S. Government Printing Office, at p. 190.

<sup>49</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. October, 1985. Washington, D.C.: U.S. Government Printing Office, at p. 190.

**Monopolies.** A key business-type activity of organized criminal groups is the attempt to establish and maintain monopolies in any fields of business they enter or attempt to control or exploit.<sup>50</sup> These fields include labor and specific areas of legitimate business goods and services.

The exploitation of labor unions as monopolies has been a subject of considerable attention. Unions are inherently monopolistic, using the term in a non-perjorative sense, in that they seek to set the prices and the terms on which labor is supplied to the economy. Such monopolies are distorted by corrupt leaderships, often involved with or coterminous with organized criminal groups, exploited to shake down employers, or to cheat their members by entering into "sweetheart" deals with employers. This labor leverage is also used as a significant component in multi-faceted schemes to develop and create monopolies and restraints of competition in the legitimate business sector. Examples where this leverage has been effectively used are the carting industry,<sup>51</sup> and the trucking in the garment industry in New York City.

(1) **The New York City Concrete Construction Monopoly.** The extent and complexity of the relationship between the exercise of union power and other methods of establishing monopolies is best to be seen by examining the much-publicized concrete construction industry scheme in New York City, *United States v. Salerno et al.*<sup>52</sup> The overall scheme depended on (1) intimidation of those who were not willing to be part of the collusive scheme, (2) control over the supply of concrete for construction work, and (3) the leverage of labor cooperation. Finally, freedom from union work stoppages was crucial to implementation of the monopoly.

This case merits special attention, not only because of its intrinsic importance, but also because it is a paradigm of the confluence of criminal abuses brought to bear by organized criminal groups and those who cooperate with them or seek their assistance to operate in and dominate a legitimate business area. It has many aspects, explored at length in the Interim Report on Corruption and Racketeering in the New York City Construction Industry by the New York State Organized Crime Task Force. Here we examine it as one would a monopoly, bid-rigging scheme with no organized crime implications. Although the indictment goes into considerable detail, a clearer picture emerges from the trial transcript itself, and particularly the prosecution's closing to the jury -- illustrative of the

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<sup>50</sup>There was considerable support for the position that in Chicago, at least, organized crime no longer looks to operate a monopoly in any of its activities -- that is, they do not actively promote new monopolies. In the case of the vending business, where there is somewhat of an organized crime monopoly, they do appear to take steps to maintain it, but even that is not clear. In the remainder of their affairs there appear to be two approaches. First, there is some effort to get organized crime out of the actual conduct of illegal activities, leaving them to independents who are then subject to the street tax. Second, there are criminal groups that are now operating independently that do not pay a street tax. For example, there is a large group of Black loan sharks who do not pay tax. Organized crime is likely not happy with the arrangements with non-taxed independents, but may not be willing to pay the price that would be required to exert control over them. Personal communication.

<sup>51</sup>Reuter, P. Rubenstein, J. and Wynn, S. (1986). Racketeering in Legitimate Industries: Two Case Studies. Executive Summary. Washington, D.C.: National Institute of Justice.

<sup>52</sup>New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June, 1987; NY-518.

insights that can be gained by researchers using public record materials. Citations in this subsection dealing with the Salerno case will be to the page numbers of the trial transcript, quoting from the prosecutive summation.

The target of this organized crime scheme was the concrete construction industry in the Borough of Manhattan in New York City. A key part of the gigantic business of erecting buildings in the Borough is the pouring and shaping of concrete for the buildings. This is a highly skilled trade, and strategically placed; any problems with these concrete construction contracts is extremely costly to the general contractors and can spell the difference between a profit and a heavy loss on the overall general contractor cost projections for a building. The stakes are similarly high for the concrete construction subcontractor; if the concrete construction subcontractor suffers labor slowdowns or work stoppages, or suffers delays in the delivery of concrete, his potential profits can almost instantly be changed into significant losses.

The scheme was simple in outline. On all concrete construction contracts involving over \$2 million dollars the bids were rigged so that, although there would be a number of bids, one particular contractor would bid the lowest price and get the job. Needless to say, this preselection insured that there would be a higher than necessary price quoted in the winning "low" bid. Those involved in the scheme were called "the club."

In this scheme:<sup>53</sup>

. . . Four men were responsible for allocating the jobs, deciding who got which job. What jobs were they responsible for allocating? Jobs over two million dollars, concrete superstructure jobs over two million dollars in the Borough of Manhattan. Each contractor paid a club fee, 2 percent of the purchase price.

. . . Other contractors participated in rigging the job for the contractor who the job was allocated to. That way the club made sure that the selected contractor got the job.

. . . The unity of labor and supply . . . control the supply of ready-mix in Manhattan, all of it so that the ready-mix supply could be used for disciplined club members and as an implicit threat to keep the club running and make money for the enterprise.

The principals in the scheme were the dominant supplier of the ready-mix (as part of the overall scheme competitive ready-mix suppliers were acquired), and a number of organized crime figures such as Salerno, Castellano, and others. The 2% club fee was divided among the organized figures at the top through various devices. Castellano, for example, not only had his cut of the 2%, but also had a direct, albeit hidden interest in the most dominant of the concrete construction contractors.

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<sup>53</sup>Salerno Transcript, 23352.

All the elements in this scheme were necessary to effectuate it, since the potential profits to be made by a successful bidder were substantial.<sup>54</sup>

. . . While it's certainly true, and we have argued extensively that these labor unions had tremendous power in the industry. . . . they could not enforce this scheme alone. They contributed to the threat of deals and stoppages but they couldn't do it by themselves. It was only when Halloran [who controlled the supply of concrete] went along with the other schemers . . . that the full threat of damages from delays and stoppages could be realized.

On the surface there was nothing to stop another subcontractor from entering the picture and bidding against the "club." But here intimidation was directed against the outsider. One major contractor was quite willing to compete against the contractors who were rigging bids, but had to withdraw in the face of explicit threats of work stoppages, the potential losses from which were so great as to ensure the unprofitability of a contract for about \$30 million of work.<sup>55</sup>

Monopolies of supplies and services have always been part of the lore of organized crime, in connection with such things as installation of vending machines and sales of beer. What should not be overlooked here are the parallels to business history in this country and abroad where monopolies have been established or where bid-rigging has been rife. For example, in connection with bid-rigging on public roads contracts, from 1981 to 1985 there were 165 criminal cases in 17 different states involving 106 different corporations and their executives.<sup>56</sup> In these more conventional monopolistic groups there may not be a central core of criminals levying a percentage of all business done, but there are efforts to restrict supplies to those who do not cooperate. Greed-induced discipline on the part of participants substitutes for the element of intimidation present where organized crime is involved.<sup>57</sup>

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<sup>54</sup>Salerno Transcript, 19391.

<sup>55</sup>The billions of dollars of construction in the Borough of Manhattan, was affected day-by-day in this scheme. General contractors and builders who tried to obtain bids outside the club were not able to do so. The costs were truly incalculable.

<sup>56</sup>Bridges, George. and Herbert Edelhertz, On the Organization and Control of White-Collar Crime: The Case of Collusive Bidding in Government Construction Contracts. Unpublished Paper (1986).

<sup>57</sup>The construction industry in New York City is the victim of more than one group and more than one form criminality. "New forms of extortion are constantly emerging. A group calling itself Black Economic Survival (BES), operating under the transparent disguise of a civil rights group, shakes down contractors by threatening sabotage of construction sites and physical violence against contractors and workers. According to a civil suit filed by New York City's Corporation Counsel:

Under the banner of equal employment opportunity for minorities in construction jobs, defendants operate a sophisticated scheme to coerce contractors to yield to their demands. The scheme involves intimidation by large groups of BES members who trespass on a construction site, threaten violence, cause work stoppages, obstruct

**Market Regulation.** Based on geography and specific markets, business communities seek to avoid chaos and introduce a sense of discipline and order into their proceedings. Sometimes this is compelled by government, as in case of regulation of the securities industry or orderly allocation of cable TV franchises. In other instances it is based on voluntary action, usually through trade associations. Groups sharing a common location for their markets will cooperate in the same way through associations, such as the Pike Place Market in Seattle. However, from time to time a market will be characterized by extreme chaos, and this presents organized crime with the opportunity to step in, impose order, and reap the benefits of its control. The prime example of such a situation is that of the Fulton Fish Market in New York City,<sup>58</sup> a central market to which fish and other seafood products are delivered each day, and where fish stores and other food retailers come to buy and take away their purchases.

(1) **New York City's Fulton Fish Market.** Organized criminal groups imposed order on this market. This meant that those who sought to deliver products to the market, or to take them away after purchase would have designated parking places. There were systems for orchestrating who would have responsibility for moving (and the right to move) seafood products through the market, and out of the market. Limitations were placed on who could sell what products, and where, in the market (here regulation merged into monopoly). Buyers knew how to get into the market, how to move through the market expeditiously, and predict all of the costs of dealing with the market, except for the prices of the seafood. Buyers may have had to pay for parking, and for loading what they could carry themselves, but this could be added to the prices they charged their customers, with the knowledge that all their competitors had to bear the same costs. Organized criminal groups operating in this market made their profits from parking "permits," and from the ownership of seafood and seafood handling enterprises in the market; in some instances they were competing with firms they were "regulating" and to which they were providing services.

Initially control over labor unions was necessary to gain dominion over the market, but this power did not have to be wielded at later stages, when control over the industry itself was in place -- buttressed by the perceived self-interest of the participants in the business of the market.

Municipal authorities in New York City had some experience over the years in the administration of services surrounding food markets, as in the case of the Essex Street Market. Organized crime involvement at the Fulton Fish Market was not exactly a secret. Since the turn of the century there were periodic investigations and indictments arising out of criminal practices at the market at least twice in each decade, yet the problems there had

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deliveries, and sometimes engage in violence. As part of the typical deal, BES agrees to keep other minority workers and groups from seeking employment at the site.

*New York City v. Black Economic Survival*, Index No. 2953/85. Cited in New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987, p. 19.

<sup>58</sup>*United States v. Local 359 et al*, 87 Civ. 7351 (TPG), United States District Court for the Southern District of New York (1987).



never been solved. It is fair to say that there was a municipal abdication of control, inadvertent or deliberate.

There were fourteen city agencies that had jurisdiction to perform many of the regulatory functions that were provided by organized crime at the market. For example, the police and other agencies had power to control parking in the streets, and to contract with private parties for the right to use city-owned land for a parking business, and sanitary and food-handling agencies had the power to control many other aspects of the market activities. After the successful conclusion of the civil RICO action to curb organized crime control over the market, the court administrator appointed to take over control of the market found that nine of these agencies did not have any idea that they had jurisdiction over the market and had totally ignored their responsibilities.

The situation in the Fulton Fish Market is not the only instance in which the absence of order in a market provides an open door for organized crime. Though other factors were present in the New York garment industry, anyone familiar with the chaotic loading and unloading in the streets where the industry is concentrated, can only imagine the far greater chaos that would be present in the absence of reputed organized crime control.

In both the case of monopoly in concrete construction and market regulation in the Fulton Fish Market, organized crime serves as a "rationalizing" factor in market activities. The New York State Organized Crime Task Force has addressed this issue in specific regard to the construction industry, but the points are equally valid with respect to the Fulton Fish Market situation:<sup>59</sup>

The large concentration of racketeers in New York City capable of exploiting the construction industry's racketeering susceptibility and potential along with the instabilities and uncertainties created by the industry's fragility and fragmentation, create a need for a "rationalized body" capable of regulating the predatory activities of the racketeers, and having the influence necessary to bring coordination and predictability to the construction process.

By controlling the activities of disparate groups of racketeers preying on the industry, syndicates can assure contractors that they will only have to pay off once for a specified result, that the amount to be paid will be "reasonable," and that the "services" paid for will be delivered. This is not a beneficent service, rather it serves the syndicate's interest in having stable relationships within a profitable industry.

The syndicate's services as such a "rationalizing body" go beyond making the demands of racketeers predictable. To the extent the industry's structure creates fragmentation and fragility, an organized crime syndicate can use its network of relationships throughout the construction industry to reduce uncertainties and promote needed stability.

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<sup>59</sup>New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987, pp. 60-61.

The syndicate's capacity for violence and its influence in both the upper and lower worlds makes its construction "specialists" more "effective" at conciliation, dispute resolution and expediting than most lawyers, mediators, labor relations or construction consultants. Similarly, where a crime syndicate can regulate the groups of racketeers who control components critical to the production, delivery and installation of a necessary supply (e.g., concrete), the syndicate has the power to bring predictability and stability to a process that could otherwise be easily and frequently disrupted.

**Immigration Issues.** In dealing with a variety of organized criminal groups (including Oriental gangs and traditional organized crime involvement in pizza parlors and narcotics distribution), law enforcement has noted the connection with illegal aliens. Cases have involved getting such persons into the country, providing housing, maintenance and employment, and keeping a tight rein on their movements. This association is not unknown in other business areas, and is probably prevalent in almost all businesses that depend on low wage, unskilled labor, such as the garment industry in Los Angeles or New York, or the building maintenance/janitorial industry.

Although such activity is not always associated with organized crime,<sup>60</sup> there is evidence of its involvement. In one case,<sup>61</sup> defendants encouraged illegal aliens to come to the United States with promises of concealment and employment -- the purpose for bringing them in was obviously as a source of cheap labor. Defendants set illegal aliens up as employees, obtained housing for them and, since records had to be established for them, obtained false social security numbers.<sup>62</sup>

### **Illegal Activities as Specialties**

There was little agreement among site visit interviewees about the degree to which illegal activities are undertaken as specialties by members of organized crime. Some were of the opinion that all individuals involved in organized crime specialized to one degree or another, it being unlikely that an individual would "shake down a restaurant for extortion one day and hijack a truck the next."<sup>63</sup> In Chicago, there is apparently a high degree of

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<sup>60</sup>Illegal aliens need not be coerced by organized crime into maintaining silence regarding working conditions or wages. Such control can be exercised by any employer over a worker who feels powerless or afraid because of the fear of discovery and deportation.

<sup>61</sup>*United States v. D'Amiano*, Crim. No. 89-22 (JWB) in the U.S. District Court, District of New Jersey. The case comes from the Newark Organized Crime Strike Force.

<sup>62</sup>*United States v. D'Amiano*, Crim. No. 89-22 (JWB) in the U.S. District Court, District of New Jersey. Defendants were charged with a number of offenses relating to illegal aliens: "Harboring" -- 8 USC 1324(a)(1)(C); "Employing" -- 8 USC 1324(a)(1)(A); "Continuing to Employ" -- 8 USC 1324a(a)(2); and "Falsely Representing Social Security Account Numbers" -- 42 USC 408(g)(2). These charges, in combination with conspiracy and aiding and abetting, can provide a good prosecutive package in such situations. See also, Pennsylvania Crime Commission. A Decade of Organized Crime: 1980 Report. St. Davids, PA: Pennsylvania Crime Commission at p. 224.

<sup>63</sup>Personal communication.

specialization within each of the various street crews.<sup>64</sup> Although there was no direct evidence for it, there was suspicion that arson-for-profit and murder might be practiced by specialists who worked across the dividing lines between street crews. In all of these cases from the Chicago example the specialists usually have direct allegiance to one particular street crew, but they can be called in to work with other crews on special projects, or as noted below, they may actually serve organized crime on a nationwide basis wherever their expertise is needed.

Other interviewees, however, did not feel that there was much specialization at the street level in organized crime.<sup>65</sup> For example, while specialization was not recognized as a common phenomenon on the Cleveland organized crime scene, it was recognized that occasionally specialists were brought in from outside the organization to perform specific tasks; in particular, real estate brokers had been brought in to handle several commercial real estate transactions for Family members, and a number of communications consultants had been used to set up and service cellular telephones used in the Family's gambling operations in Cleveland.<sup>66</sup> There is at least one excellent example of a local specialist solely devoted to serving the needs of the Cleveland Family -- there is an electronics technician who provides wiretap and electronic sweeping services exclusively for the Family. This individual was originally a thief who later became a security and alarm system consultant, and now provides his services exclusively to the Family in Cleveland.<sup>67</sup>

There are also specialists who seem to have national constituencies. For example, there is a gambling logistics expert in Chicago who made numerous trips to San Diego, California to assist in the start-up of a casino gambling operation on an Indian reservation.<sup>68</sup> There are other experts in Chicago who consult in bookmaking operations, primarily contracts with other gambling operations around the nation for the purpose of laying off bets.<sup>69</sup>

Among the most frequent illegal activities mentioned as being carried on as specialties were arson, hijacking, corrupt union administration and narcotics trafficking. In

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<sup>64</sup>There are crew experts who apparently handle what can be called "governmental affairs" for organized crime groups in Chicago -- they are the "fixers" who work governmental contacts to obtain favorable or preferential treatment of individuals and activities associated with organized crime. Personal communication.

<sup>65</sup>Personal communication.

<sup>66</sup>A contract killer was also brought in from the outside to murder Danny Greene after a number of bungled attempts by local talent.

<sup>67</sup>Personal communication.

<sup>68</sup>Personal communication. Among the things that he handles are the logistics of actually setting up the casino and laying out a skimming operation. The issue of organized crime involvement with gambling on Indian reservations has surfaced in a number of different contexts. For example, a proposed deal between a Las Vegas-based gaming company and the Puyallup Tribal Council for construction of \$2.2 million bingo hall fell apart when it was reported that the gaming company had associations with Frank Fitzsimmons, late president of the Teamsters Union, and others with links to various parts of organized crime. Seattle Times, 11/4/88, p1, col. 2.

<sup>69</sup>Personal communication.

the case of arson, there are particular technical skills and knowledge that must be used to ensure a "good burn" that are not commonly known to the common run of organized crime associates. Hijacking may be a specialty not because of any special criminal techniques that are required, but because of the need to have access to inside information to identify particular shipments of desired goods and information regarding shipping schedules and routes. Similarly, corrupt union administration depends primarily on access to the union itself and some understanding of union operations. Finally, narcotics trafficking is a world unto itself in terms of the contacts and procedures necessary to carry it out.

In general, our interviewees did not think there was anything noteworthy about specialization within organized crime or about the particular activities in which individuals specialized. Rather, concentration on one activity or set of closely related activities was seen simply as the most convenient and efficient way organized criminal groups adopt to divide up tasks among members and associates. Each illegal activity has a body of knowledge and "tools of the trade" that have been developed over the years and to be successful at that activity requires understanding of that knowledge base and mastery of those tools.

This approach to specialization within organized crime is exactly what one would expect to find in an organization devoted to maximizing profits through increases in the efficiency of its workers. Specialization is deliberately adopted in the legitimate business world for exactly the same reasons, and there is no reason to expect organized crime to operate any differently. In fact, it would have been a most surprising discovery to find no specialization within organized criminal groups.

Continued consideration should be given to the issue of specialties within organized criminal groups, notwithstanding the absence of focus on this subject in law enforcement agencies. The clear parallels to the operations of legitimate business compels attention to the issue. In light of the rationale for RICO legislation -- to strike at the capacity of organized criminal groups to operate and survive -- it may very well be that greater focus on those who are essential to operations will be a productive area for intelligence gathering and prosecution.

### III. BUSINESS TYPE ACTIVITIES: LEGAL ACTIVITY

#### Introduction

Although the *raison d'être* of organized criminal groups is the pursuit of income from illegal activities, for a variety of reasons such groups necessarily engage in what appear to be or are legal activities. Some of these activities are complementary to illegal activities, others stem from investment or other purposes. A retail establishment may be a front for gambling or other illegal activities, but it is nonetheless a legitimate business and there is no reason to believe that such an establishment is not intended to make a profit. Gambling enterprises, though illegal in many jurisdictions, are also legal in others. The profits of illegal activities may be and often are invested in real estate, which are usually legal ventures notwithstanding the provenance of the purchase money.

In general, the businesses in which organized crime is involved can be categorized as follows:<sup>1</sup>

First, there are businesses that are actually owned or controlled by organized crime. They can provide a legitimate front for criminal activities and can enable organized crime to eliminate competition and set prices in particular markets.

Second, in certain industries there are trade associations (groups of businesses conducting the same trade), which have been compelled by local market conditions to deal with organized crime-influenced unions. The associations can operate as cartels by setting prices, allocating markets, and deciding who may or may not conduct business. Associations can function as instruments of control over industries in the same manner that unions used to influence an industry.

Third, some businesses, not influenced by organized crime, have nevertheless found it beneficial to strike deal with organized crime-influenced unions or businesses. The benefits secured -- reduced labor costs, labor peace, or higher profits -- are the incentives for cooperation.

As noted above in Section II, this does not resolve the conceptual problems raised by attempting to distinguish between the legal and illegal business-type activities of organized criminal groups. Even though a drug trafficking group operates a limousine service for profit in a legitimate manner, the fact that it is also used to deliver cocaine<sup>2</sup> makes it difficult to characterize the limousine service as "legal." However, for the limited purpose of making an inventory of the activities of organized criminal groups, and the

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<sup>1</sup> President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office, March 1986, pp. 10-11.

<sup>2</sup> *United States v. Schultz*, CA-187.

description of those activities, we adopt this distinction between legal and illegal business-type activities.

Our discussion of legal activities focuses on ways in which they:

1. serve as complements to illegal activities in facilitating or supporting them,
2. provide cover for illegal activities,
3. are facilitated or supported by illegal activities and means, or
4. are conduits for investment of the proceeds of illegal activities.

The material in this section discusses what we learned from organized crime indictments and complaints, and from our interviews with prosecutors and investigators about the legal activity (as defined here) of organized criminal groups.

### The Character and Frequency of Legal Activities

Table 3.1 shows the legal activities of organized criminal groups over an approximate two year period identified from analysis of the indictments, complaints and other public record information that served as the source of data for the data base. The frequencies referred to represent the number of times each legal activity appeared in the 165 cases in the data base.<sup>3</sup>

As noted in Section III, both legal and illegal business type activities can be categorized along a continuum with these anchors:

1. strictly legal business,
2. legal business that is a conduit or vehicle for illegal activity,
3. illegal business that is a conduit or vehicle for legal activity, and
4. strictly illegal business

Table 3.1 shows the legal activities that fall under the first three categories, but does not differentiate activities among the categories because such determinations generally could not be accurately made from the information contained in the indictments.

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<sup>3</sup>The major part of the data base consisted of indictments and complaints returned in the approximate period from January 1, 1986 to December 31, 1987, which were the time boundaries of our requests directed to cooperating law enforcement agencies. Cases presenting additional materials for our inventory of business-type activities were added to this data base, even though they were outside this time frame.

Table 3.1

**BUSINESS-TYPE ACTIVITIES: LEGAL ACTIVITIES**

Legal Activity	Frequency	Legal Activity	Frequency
Union Administration	32	Mortgage Lending	2
Employee Fund Administration	21	Moving Services	2
Restaurant Operations	15	Retail Sales	2
Adult Entertainment	12	Solid Waste Disposal	2
Commercial Construction	12	Gambling	2
Food Products	7	Air Freight Services	1
Transportation Services	7	Auto Sales	1
Wholesale Sales	6	City Government	1
Auto Wrecking/Parts	5	Escort Services	1
Banking	5	Health Spa	1
Financial Services	5	Importing	1
Adult Books	4	Insurance Sales	1
Bar/Tavern	4	Limousine Services	1
Equipment Repair	4	Manufacturing	1
Investment Services	4	Massage Parlors	1
Building Material Supplies	3	Photo Studio	1
Cargo/Container Handling	3	Real Estate Services	1
Mail Order Services	3	Stocks/Securities Trading	1
Health Care Services	2	Tow Truck Operations	1
Hotel Services	2	Toxic Waste Disposal	1
Law Enforcement	2		

It is not surprising that the legal activities of organized criminal groups, as represented in this table, cover a wide range. While the number of criminal activities of organized criminal groups is somewhat limited by their opportunities and the influence of law enforcement activities, such limitations are far less likely to come into play with respect to legal activities. There are almost no limitations in the area of general investment, the few that there are being confined to businesses that require regulatory approval for entry and consequent resort to devices such as "fronts."

The greater part of this inventory of organized crime legal activities, as might be expected, are those that relate to sites or platforms that facilitate implementation of illegal activities. Union administration and its companion employee fund administration, which head the list, are obvious examples. In order to loot union treasuries and benefit funds, or to wield union power to control markets, organized criminal groups must immerse themselves in the business of administering unions and their resources. Given their attraction to bars and restaurants, as noted below, organized criminal groups would obviously engage in the normal operations of such enterprises. Adult entertainment and adult book ventures serve as sales outlets for pornography production. Banking enterprises facilitate money laundering. Escort services serve as sales outlets for the prostitution business, and other activities, such as auto wrecking/parts are related to the theft and fencing of automobiles.

Activities more closely connected to organized crime investment in legitimate enterprises, such as real estate, rank relatively low in the frequency counts in this table.

This may simply indicate that the subject matter of such investments is less likely to be attractive for inclusion in criminal pleadings than other activities more closely related to illegal activities. Nonetheless, the many and varied enterprises on this list that have obvious relationships to illegal activities, may well be investment activities chosen because they are familiar to the members of organized criminal groups and not because they facilitated illegal activities.

While Table 3.1 lists the legal activities that were identified from the data base, Table 3.2, below, shows those legal activities that were referred to by the interviewees, all prosecutors or investigative supervisors.

**Table 3.2**

**LEGAL ACTIVITIES IDENTIFIED DURING  
SITE VISITS**

adult entertainment	meat packing
air freight	movie industry (production)
automobile dealerships	movie theaters
banking	novelty shops
bars	political activities
carting	produce markets
catering	restaurants
construction	shopping centers
entertainment promotion, booking and management	transportation
fast food	trucking companies
flea markets	union administration
gambling	vending sales and service
garment industry	wholesale/retail production
labor services	

There are two points about the comparison between Table 3.1 Table 3.2. First, interviewees were not asked to identify all the legal activities that organized crime was involved in in their jurisdictions; rather, they were asked to identify the most prevalent forms of such activity. Second, interviewees responses to a question about "prevalence" could be expected to be affected by the most recent cases in which they had been involved or by the most memorable recent case. Thus, there is no reason to expect a one-to-one correspondence between Table 3.1 and Table 3.2. As can be seen, however, there is large amount of overlap between the two -- the most common legal activities from the data base (i.e., adult entertainment, union administration and restaurant operations) being consistently represented among those identified by interviewees.

It is interesting to compare these lists to a 1973 catalogue of businesses in New York City that were dominated by organized crime. Among the types of businesses were bars, restaurants and diners, floor covering companies, delicatessens, real estate companies, garment producers and wholesalers, trucking companies, a tropical fish supply



company, and a small chain of funeral homes. With the exception of the latter two businesses, not much has really changed.<sup>4</sup>

The Wharton Study,<sup>5</sup> commissioned by the President's Commission on Organized Crime, casts similar light on the prevalence of organized crime involvement in legitimate activities. The table below shows the number of criminal organizations involved in various legitimate businesses according to the Wharton Study:

Table 3.3

**ORGANIZED CRIMINAL GROUP INVOLVEMENT  
IN LEGITIMATE BUSINESSES**

Legitimate Businesses	Number of Criminal Groups
Food & Liquor Distribution and Retailing	253
Construction	137
Legal Gambling	78
Waste Hauling	58
Entertainment and Leisure, Including Clubs and Hotels	47
Motor Vehicle Sales and Repairs	41
Garment Industry	34
Real Estate	18
Banking	9
All Other (generally retail and service establishments)	93

This listing is not as detailed as that derived from our project data base and interviews, but is consistent with what we found. The numbers also differ because our data were collected from other sources, but as noted above the exact numbers are not as important as the identification of the specific industries in which organized crime is involved, and the relative degree of organized crime involvement in different industries. On this latter point, neither the Wharton Study nor our data can shed much light.

**Attraction to Particular Legal Activity**

There is a clear "folk wisdom" among practitioners and researchers that particular legal business and organizational areas are attractive as objects of organized crime attention -- as income producers, as vehicles for the conduct or handling of the proceeds of illegal activities, and as avenues for investment in the legitimate business sphere.

Our interviewees were asked to address this question of attractiveness, as distinct from the other related question about why specific businesses and organizations are

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<sup>4</sup>"Plan to List Mob-Linked Concerns Is Still Studied". New York Times, March 4, 1973.

<sup>5</sup>Wharton Economic Forecasting Associates, Inc. in President's Commission on Organized Crime. The Impact: Organized Crime Today. (April, 1986). Washington, D.C.: U.S. Government Printing Office, Table 13, p. 485.

vulnerable to organized crime infiltration. We sought to shed greater light on how the "business of organized crime" makes its investment decisions, in a manner parallel to those of the legitimate business sector. Some of the answers confirmed earlier conceptions, others broadened and expanded on them.

The interviewees invariably first identified the business and organizational areas they believed were attractive to organized crime. As might have been anticipated they identified trucking, labor unions, the entertainment industry, and other targets that have frequently been cited as examples. From this they went on to observe why and how organized criminal groups focused on these businesses and organizational areas, and what these groups expected to gain from acquiring control and ownership there. Interviewees were well aware of explanation commonly offered for involvement in particular sectors, for example that cash intensive businesses were desirable as vehicles for skimming and money laundering. They noted that in such cash intensive businesses individual transactions are hard, if not impossible to trace, and that where there is a high volume of cash flow, skimming a small percentage off the top is more difficult to detect.<sup>6</sup> Interviewees also cited the need of organized crime figures to generate declarable income for members and associates, for which legitimate business is an ideal vehicle.

In general, organized crime is attracted to any business area, business organization or business opportunity for the same reason that motivate legitimate entrepreneurs -- the perception that there is money to be made. However, the profit motive may not be the only reason for organized crime involvement in a business. One interviewee argued strongly that organized crime members or associates do not ever buy or operate a legitimate business solely for the purpose of making a legitimate profit on the operations of that business -- there is always some ulterior, illegal motive that can be found if the right questions are asked in an investigation.<sup>7</sup> In addition, the opinion was expressed that, contrary to conventional wisdom, there may, in fact, be nothing special about the nature of the businesses in which organized crime is typically found -- it may be that investigations simply end up focusing on particular businesses because that is where organized crime members and associates "hang out."<sup>8</sup> Beyond this, however, there are other considerations that appear to influence the attractiveness of a business to organized crime.

**Targets of Opportunity.** Many businesses become targets of takeovers not because of any special characteristics they may have, but rather because their control or acquisition stems from other organized crime activities. The most common example is a business run by the loanshark victim that, when the owner sinks further and further into debt, finally ends up under the total control of the loanshark. In one major case there was a broad range of victims, including restaurants, manufacturing facilities, and retail

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<sup>6</sup>The attractiveness of vending and pizza businesses is explained by the opportunity they present for skimming -- "The opportunity to skim profits in high cash businesses may explain why they are popular with organized crime figures." Pennsylvania Crime Commission. A Decade of Organized Crime: 1980 Report. Pennsylvania Crime Commission. 1980, p. 215.

<sup>7</sup>Personal communication.

<sup>8</sup>There is some support for this argument in discussions below regarding the apparent popularity of bars and restaurants as legal activities undertaken by organized criminals.

establishment.<sup>9</sup> While certain enterprises may be more likely to be in the lending ambit of loansharks because of their "attractiveness" as discussed elsewhere in this section, there is no reason to believe that any area of business is invulnerable to organized crime.

As a general rule organized criminal groups will find attractive that which is familiar, and that parallels illegitimate activities in which they are already involved. They will thus gravitate to legal gambling, and to businesses that have some connection with the "vices" such as pornography, and adult entertainment. And, as was noted by one of our interviewees, organized crime in Chicago is drawn "like a moth to a candle" to anything associated with the entertainment business.<sup>10</sup>

All observers of the organized crime scene are acutely aware of the link between organized crime and labor unions they control, that lead ultimately to exploitation of pension and welfare funds. One can legitimately speculate that recognition of the corrupt potential of such funds evolved in the normal course of events from control over labor organizations. The decision making power of organized crime figures, with respect to purchases of goods and services, evolved naturally with the assistance of those who could point the way:

An army of foot soldiers in the form of professional asset managers, fund administrators, insurance providers, dentists, and accountants front for organized crime in its manipulation of union benefit funds. So-called service providers, complete with an infrastructure of overlapping shell organizations, gives the mob the means to launder benefit funds' assets from union members and union treasuries.<sup>11</sup>

In some instances opportunities will be brought to organized crime figures, in others they will become aware on their own of looming targets of opportunity. A dentist told the President's Commission on Organized Crime about how he was hired by a control figure in a union who knew nothing about dentistry, to set up a dental clinic and get it running.<sup>12</sup>

**The Business Environment.** The members and associates of organized criminal groups who engage in a broad range of criminal and legal activities need places to conduct their business, to exchange information, and to plan operations. It is often a social club that serves these purposes. The importance of such locations is attested to by the attractiveness of such clubs as targets for electronic surveillance by law enforcement

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<sup>9</sup>This is described in the Brief for the United States in *United States v. Biasucci*, No. 85-1206, S.D.N.Y., 2nd Cir. (1985).

<sup>10</sup>Personal communication.

<sup>11</sup>President's Commission on Organized Crime. Organized Crime and Labor-Management Racketeering in the United States; Record of Hearing VI (April 1985) at p. 455. Washington, D.C.: U.S. Government Printing Office.

<sup>12</sup>President's Commission on Organized Crime. Organized Crime and Labor-Management Racketeering in the United States; Record of Hearing VI (April 1985) at p. 462. Washington, D.C.: U.S. Government Printing Office.

agencies. Much of the planning of criminal activity is also done in sidewalk conversations, and in automobiles.<sup>13</sup>

Certainly the premises of business enterprises owned or controlled by organized crime are used for such purposes, but such sites have their own built-in limitations. In light of the conglomerate nature of organized criminal groups that cover a broad range of activities that include bid-rigging, arson, extortion, gambling, and a host of other field of organized crime endeavor,<sup>14</sup> there are obvious dangers to bringing together the personnel of separate operations. A number of the law enforcement agency interviewees made the point that in the organized crime environment it was mandatory that supervisors, such as capos, know what is going on in the areas under their jurisdiction, but that there were very real limitations on cross-jurisdictional information. Ordinary business premises would be more likely to be hangouts for narrower segments of organized crime groups. For example, the offices of the cement construction contractors involved in the "club" that rigged bids on all construction in the Borough of Manhattan were appropriate as meeting places for those engaged in the scheme, but were quite inappropriate for those engaged in the gambling businesses of the organized criminal groups engaged in the scheme. Likewise, union offices may be appropriate for meetings with those exploiting and corrupting unions, but the organized crime leadership that managed these ventures are unlikely to frequent these sites.

As has often been noted, bars and restaurants are frequent targets for organized crime investment and operation. In the opinion of site visit interviewees, they are particularly attractive for a number of reasons:

1. they provide arenas for exchanges of views and information, and for reporting of activity and management directives.
2. they provide comfortable and familiar surroundings, where exchanges can take place in a social setting, and where the risks of recreational activity are minimized.<sup>15</sup>
3. owners of bars and restaurants appear to be the "kind" of people who often associate with members and associates of organized criminal groups, either through gambling or loanshark connections or their need to rely on service businesses controlled by such groups.

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<sup>13</sup>New York Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

<sup>14</sup>*United States v. Salerno*, NY-74; NY-517; NY-518.

<sup>15</sup>The need, and uses of familiar sites is has been noted. Lucchese ("Three Fingers Brown") secretly owned a nightclub where he would be lavishly attended and fawned over. See Pileggi, Nicholas. Wiseguy: Life in a Mafia Family. 1985. Simon and Schuster: New York, N.Y. at p. 48. In Pileggi, at pp. 81-82, the intricate social ballet of organized criminal group recreation is also noted. At nightclubs that were common social meeting grounds, there were strict etiquette rules --- wives were taken there on Saturday nights and girlfriends on Friday nights, so that there would be no embarrassments or social errors.

Regardless of uncertainty about the reasons for the attractiveness of bars and restaurants as legitimate activities for organized crime members and associates, there is a general feeling in law enforcement agencies that such ventures are almost never financially stable or successful over the long term.<sup>16</sup> The reasons for this have to do with what happens when organized crime operates a restaurant or bar. First, the organized crime owner generally hires friends and relatives to work in the business.<sup>17</sup> Most of these employees have little or no experience, cannot be supervised because they are "friends of the boss," are highly prone to steal from the business (even though it is owned by a friend or relative), and lack even the most rudimentary "service orientation" that is key to the operation of a successful restaurant or bar. Second, the fact of organized crime ownership quickly gets around to other organized crime members and associates who begin frequenting the business -- but feel no obligation to pay for meals or drinks because they are "friends of the boss." Finally, the establishment is likely to become a "hangout" for organized crime members and associates who do not have anything to do (or money to spend), and the presence of a large number of such loiterers tends to drive away any remaining legitimate customers.

Regardless of the difficulties of running a successful establishment, restaurants and bars remain a popular vehicle for organized crime, and continue to be a favorite gathering spot for business and socializing. Maintaining environments that fill organizational needs may be more important than owning and operating a viable enterprise.

**"Choke Points" in Legal Activities.** Similarly, organized crime groups are drawn to service-related, labor-intensive industries (such as transportation, and carting) because participation in such businesses provides organized crime with the opportunity for entry and control in sister/companion businesses and in related component businesses.<sup>18</sup> Participation in such businesses puts organized crime in a position to exercise some control over the "choke points" of an industry. Thus, if organized crime participates and dominates the concrete construction industry (as in New York City) it is in a position to severely disrupt (and thus exercise control over) widely divergent activities that depend on a steady and predictable supply of concrete and qualified concrete construction subcontractors.<sup>19</sup> For example, the inability to depend on timely delivery of concrete will

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<sup>16</sup>Personal communication.

<sup>17</sup>These people are hired both because the organized crime owner wants his friends and relatives around because he feels more comfortable among "his own," and also because he may be under not so subtle pressure to provide a means of support to friends and relatives, even if they are not the best qualified employees for his business.

<sup>18</sup>Personal communication. One theory for the attractiveness of the carting business to organized crime asserts that "the fact the individual carting concerns were originally small, family operations, largely of the same ethnic origins, closely knit and struggling to make a living in an occupation that was looked down on by the general public, made it easy for them to accept the "property rights" system (imposed by organized crime) as a means of protecting their livelihood." Organized Crime's Involvement in the Waste Hauling Industry. A Report from Chairman Maurice D. Hinchey to the New York State Assembly Environmental Conservation Committee. July 24, 1986, p. 5.

<sup>19</sup>New York Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

add tremendous costs to a carefully scheduled construction project. The same "choke point" reasoning applies to businesses and industries dependent on the provision of labor services. In general, the ability of organized crime to control those activities enables it to exert influence over any business or industry that depends on labor for its existence.

**Deficiencies in Industry Regulation or Oversight.** Business activities that are unlikely to be the subject of close public or official scrutiny are particularly attractive to organized criminal groups, for two major reasons. The first, obviously, is their natural predilection to avoid attention to their activities, for fear that this would result in concentration of law enforcement or tax enforcement efforts directed against them. But on another level there are benefits to be gained, even where an industry seems to be closely regulated -- by deficiencies in regulatory oversight that stem from public corruption or inadequate attention.<sup>20</sup> Corruption may make it easier to avoid costly public protection efforts, as in the case of sanitary requirements for the operations of eating establishments.

More important may be the benefits flowing from inadequate or underfinanced regulatory efforts. For example, disposal of toxic waste can be far more profitable because state and federal regulators do not have the resources to track down every disposal job, leaving the way open to bid low for jobs because toxic wastes can be simply dumped into open streams, as happened in New Jersey.<sup>21</sup>

Inadequate oversight in industries not controlled by organized crime may likewise attract the attention and patronage of organized criminal groups, separate and apart from ownership and control (though individuals employed in such industries may be corrupted). Much of the problem stems from a lack of compliance orientation on the part of regulators charged with responsibility for an industry.<sup>22</sup> The problem with regulatory officials who do not have a compliance orientation is that they do not look for "bad" people or "bad" motives. The compliance orientation problem is illustrated by a bank failure case where, upon the most cursory examination it was found that the bank had processed thousands of individual transactions that exceeded the \$10,000 cash transaction reporting limit. The bank had duly documented each transaction as required by currency reporting regulations. However, the fact of such a large number of transactions was never questioned by bank regulators because each transaction had been duly reported.<sup>23</sup>

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<sup>20</sup>The characteristics of businesses that are particularly susceptible to organized crime infiltration in this regard are relatively straightforward. The key is to look for businesses where there is little or no governmental regulation or where there is ineffective or inefficient regulation. An example may be the developing asbestos abatement industry. In New York there are currently only 2 EPA investigators for an area that could productively employ fifty. There are indications that organized criminal groups have already been attracted to this industry. Personal communication.

<sup>21</sup>Law enforcement is concerned with this issue for two reasons: (1) the obvious danger to the environment that is presented, and (2) the lack of comprehensive federal enforcement statutes that apply to toxic dumping (the enforcement statutes that are in place do not provide criminal remedies -- the penalties are all civil. Recourse is often taken, therefore, to the mail and wire fraud statutes for want of specific criminal remedies. Personal communication.

<sup>22</sup>Personal communication.

<sup>23</sup>Personal communication.

**The Importance of Union Control.** There is a clear and distinct relationship between the attractiveness of a business or industry, and its potential for vulnerability to one of the major unions that have shown themselves amenable, to greater or lesser degree, to organized crime control.

A significant portion of the cases that were part of the project's data base contained allegations of union corruption and the exploitation of union power to achieve illegitimate objectives. The President's Commission on Organized Crime addressed this subject in considerable detail.<sup>24</sup> The indictments and complaints, and the Commission's reports point to the use of the power of a number of unions, particularly the Teamsters.<sup>25</sup>

Once again, it is difficult to separate the legitimate and the illegitimate functions of such unions. While a union may be otherwise corruptly managed and exploited, across a broad range of activities it may operate to service the needs of its members -- at least where such needs do not conflict with the illegitimate purposes of the leadership. Though the bulk of its activities may be legitimate, a union can be an attractive organization for takeover because of its potential to achieve a number of organized crime objectives:

1. Employment opportunities for those with organized crime connections at good, and often at extravagant salary levels. These opportunities serve as a vehicle for employment of top organized crime figures, and lower level organized crime associates. There are also other special benefits, such as relatively uncontrolled expense accounts and other perquisites.
2. Low or non-existent capital requirements, except in certain circumstances where unions and their memberships are actually purchased.<sup>26</sup>
3. Use of a union as a "cow to be milked," through embezzlement and exploitation of pension, health and welfare funds, no-show employees, and kickbacks for purchase of goods and services.

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<sup>24</sup>Report of the President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (March 1986).

<sup>25</sup>In addition to the control exercised by Teamsters over the movement of goods, it is also instructive to consider the nature of other trades and professions represented by the Teamsters Union. For example, in Chicago the Teamsters represent such groups as car wash attendants, embalmer's assistants, gas station attendants, janitors and building maintenance personnel, to name but a few. These occupations are frequently made up of individuals who are transient, highly mobile, often illiterate and frequently, illegal immigrants -- generally people who are not in a position to effectively assert their rights or complain when a union does not protect them or adequately represent them. The pension and welfare fund payments made by such workers and their employers are far less likely than other union funds to be collected upon retirement and provide a ready source of cash for the organized crime groups that control the union. Personal communication.

<sup>26</sup>Organized Crime and Labor-Management Racketeering in the United States, Record of Hearing VI (April 22-24), Washington, D.C.: U.S. Government Printing Office at p. 362 et seq.

4. Use of a union to provide leverage to control or regulate a trade or industry to obtain special profits from their operations.<sup>27</sup> Typical examples are the concrete construction industry in New York City,<sup>28</sup> the entertainment and the carting industries, and the operations of the Fulton Fish Market in New York City.<sup>29</sup>

### The Purpose of Providing Legal Goods and Services

The specific allegations of the indictments, complaints, and other public record information in the project data base only occasionally described the purposes or objectives that drove the decisions of organized crime defendants to enter into legitimate ventures. In some instances it was necessary to infer such purposes from the allegations. Table 3.4 shows the frequency with which particular organized criminal group objectives were noted.

Table 3.4

#### PURPOSES OF PROVIDING GOODS AND SERVICES

Purpose	Frequency
Generate source of legitimate profit	84
Front for illegal activities	69
Generate source of illegitimate profit, e.g., skimming	43
Provide opportunity for illegal activity	40
Protect individuals from criminal liability	26
Launder money	12
Generate capital for illegitimate activities	7
Provide standby jobs for retainers	5
Sell stolen property	4
Influence public officials	3

Two points should be kept in mind in interpreting the data shown in Table 3.4. First, for some active cases it simply was not possible to determine the existence of a relationship between criminal offenses charged and the marketing of legal goods and services. For example, an indictment may have charged a gambling violation and referred to the fact that a defendant owned and operated a restaurant -- but made no reference to any relationship between the gambling activity and the restaurant. In such cases, one might infer that the restaurant was used as the base of operations for gambling, but unless there

<sup>27</sup>An unusual use of union power in this regard was pointed in testimony before the President's Commission on Organized Crime. FBI Agent James Kossler declined to answer a Crime Commission member who asked about "organized crime infiltration of supermarket chains, using their labor contracts, and so forth, to extort the chains into carrying inferior products." He apparently declined to answer because the question addressed part of his on-going investigations.

<sup>28</sup>New York Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

<sup>29</sup>Personal communication.



was a clear indication of such from the indictment, no purpose would have been coded by us. Thus, not all active cases could be coded for this variable. Second, as might be expected, there were other instances in which there were clear indications of multiple purposes for the provision of legal goods and services. For example, a banquet room in a restaurant could have been used for the conduct of illegal card games; dealers and others involved in the gambling operation could have been carried as full-time employees on the books of the restaurant (either as "real" employees or in a "no-show" capacity); and proceeds of the gambling operation could have been laundered through the books of the restaurant. Under such circumstances, the provision of a legal good or service (i.e., the restaurant) would have been coded as serving multiple purposes.

Thus, while the data in Table 3.4 do not rigorously define organized crime purposes in this regard, they do provide insights into the reasons why organized crime groups market legal goods and services. It should come as no surprise that the primary reason that shines through our data is the simple one of making money. But there were lesser, but still significant purposes shown in Table 3.4 that are consistent with the criminal objectives discussed above in Section II. It is noteworthy that in only half of the cases where a purpose was recorded was the generating of legitimate profit the objective, and that in the 165 cases in the project data base there were 209 instances in which the clear purpose for providing legitimate goods and services was something other than simply making a profit from the effort -- some other illegitimate purpose.

The investigative and prosecutive personnel who cooperated in our site visits gave us their insights into the question of organized crime's motivation for movement into the legitimate sector. We reviewed our findings from the project data base of indictments and complaints with them. They expanded on our findings, as outlined in Table 3.4 suggesting that organized crime purposes fell into one or more of four general categories:

1. Legitimacy. From a sociological perspective, personal legitimacy has become an increasingly important motivation for organized crime members and associates. The need to be seen as a "respectable citizen" carries increasing weight in decision making, particularly among higher level organized crime members.<sup>30</sup>
2. Plausibility. Entry into and participation in a legitimate business provides at least the facade of plausibility for confrontations with law enforcement, particularly the inquiries of the Internal Revenue Service.
3. Deniability. Active engagement in a legitimate business results in additional protection from law enforcement inquiries by distancing an organized crime member or associate from illegal activities.<sup>31</sup>

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<sup>30</sup>An example of recent organized crime behavior in Chicago illustrates the application both of legitimacy and plausibility to the actions of organized crime members and associates. Apparently the lifestyles of organized crime leaders in Chicago have changed dramatically over the last decade; they are moving out of the lower middle class neighborhoods in the city into the relatively affluent western suburbs. The move to this higher income lifestyle has forced organized crime members to take on the appearance of a legitimate job or activity that justifies the costs of maintaining the more expensive lifestyle. Personal communication.

<sup>31</sup>In New York City, John Gotti continues to maintain that he is a salesman for a plumbing supply business.

4. **Opportunity.** The opportunities for the conduct of illegal activities is certainly one of the main purposes of engaging in legal activities -- the ability to skim profits from a legal activity, to launder money, and as fronts for illegal activity are common examples.<sup>32</sup>

### Relationships Between Illegal and Legal Activities

Organized crime figures frequently engage in what appear to be legitimate activities in order to facilitate their criminal pursuits. The relationship between illegal and legal activities may help law enforcement personnel to recognize the significance of information gathered in the course of a criminal investigation. For example, in investigating organized crime operations involving the adult entertainment business, it is instructive to note that prosecutors have found evidence of violations as varied as false statements, extortion, threats of violence, obstruction of justice, bribery, perjury and prostitution. This example is taken from Table 3.5, which addresses the issue of the relationships between illegal and legal activities.

In Table 3.5 we consider the two major items of information the 165 cases in the data base: (1) actual offense charged, and (2) other illegal activities cited in the indictments and civil complaints. We relate these two items of information to information in the pleading that identify what appeared to be legitimate enterprises operated concurrently and that were connected to the illegal activities reflected in the pleadings.<sup>33</sup>

Table 3.5 should be regarded as an inventory of possibilities, rather than as documentation of relationships that might be found in a representative number of prosecutions involving specific illegal activities. One of the conclusions that can be drawn from this table is that there is a high likelihood that wherever organized crime figures are involved in apparently legal enterprises, white-collar criminal violations (such as fraud, false statements, usury, embezzlement and tax violations) may play a prominent role in subsequent prosecutions.

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<sup>32</sup>An increasingly important reason for engaging in a legal activity is so the business premises can be used as a communications or message center for organized crime. Because of the mistrust of the security of telephones, much communication between organized crime members and associates occurs through passage by word-of-mouth or coded notes, and a business location is a good drop site for such communications. Personal communication.

<sup>33</sup>In almost all instances these 165 indictments and civil complaints contained numerous counts. This explains why there are 200 instances of illegal activities related to union administration, although only 31 of the indictments in the data base involved union activities.

Table 3.5

**RELATIONSHIP BETWEEN ILLEGAL ACTIVITIES  
AND LEGAL ACTIVITIES**

Offenses and Illegal Activities	Legal Activities	1	2	3	4	5	6	7	8	9	Legal Activities
	Frequency	200	106	78	62	54	34	28	22	15	
Fraud	93	25	16	14	11	6	5	5	3	2	
Conspiracy	92	20	12	8	7	7	3	1	4	2	1 Union Administration
Racketeering	61	15	10	6	3	7	4	3	1	4	2 Employee Fund Administration
False Statements	54	17	10	5	3	2	2	3	4	2	3 Restaurant Operations
Extortion	51	12	3	4	6	4	1	0	0	0	4 Construction
Threats/Violence	45	6	2	5	4	3	2	2	1	0	5 Adult Entertainment
Gambling	42	4	0	5	3	0	1	0	0	0	6 Wholesaling
Obstruction	40	12	4	5	4	4	2	1	1	1	7 Financial Services
Debt Collection	35	5	3	2	2	0	3	2	1	0	8 Banking
Usury	35	2	0	4	4	0	3	2	3	0	9 Auto Dealer
Kickbacks	30	24	17	2	3	0	1	3	0	0	
Theft	29	7	3	2	0	0	0	0	0	4	
Embezzlement	27	19	12	0	1	0	0	3	2	0	
Tax Violations	27	2	2	6	1	7	2	0	0	0	
Threat/Financial	20	5	2	2	2	0	2	1	0	0	
Bribery	18	7	4	1	1	1	1	1	0	0	
Union Corruption	17	11	5	1	1	0	1	1	0	0	
Murder	15	4	0	1	3	0	1	0	0	0	
Prostitution	12	0	0	2	0	7	0	0	0	0	
Perjury	11	1	0	1	0	1	0	0	0	0	
Loansharking	11	0	0	0	2	0	0	0	2	0	
ITAR	11	2	1	2	1	5	0	0	0	0	

#### IV. BUSINESS-TYPE ACTIVITIES: USE OF SERVICES

##### Introduction

Experienced investigators have long noted that a significant key to unraveling complex organized crime schemes, as a way station to piecing together criminal cases, is to explore the minutiae of organized criminal operations. Ronald Goldstock put it this way:

. . . Enterprises that deal in the delivery of illicit goods and services need to keep records of their transactions. In addition, the laundering of the proceeds of illegal activities leaves a paper trail through legitimate companies and financial institutions. Thus a valuable role may be assumed by sophisticated investigative accountants, skilled in analyzing books and records and in the detection of organized crime figures . . . [these] often permit them to make especially valuable contributions to the development of remedial strategies.<sup>1</sup>

Although Goldstock stressed the importance of the paper trail, what he said applies equally to the examination of the broader range of legitimate services employed in furthering the illegitimate and legitimate businesses in which organized criminal groups engage. Ownership and operation of a legitimate business may create vulnerabilities for organized criminal groups that can be exploited by law enforcement. These vulnerabilities can stem from a number of conditions, including:

1. business premises are easier to wiretap.
2. businesses typically have to deal with other legitimate businesses (such as suppliers, and often competitors).
3. businesses often must deal with a number of different regulatory agencies.
4. a business typically must keep some minimum amount of records.

The Executive Director of the President's Commission on Organized Crime pointed to the broader group supplying professional services:<sup>2</sup>

Like other sophisticated enterprises, organized crime cannot flourish in our complex and technological society without the expert services of a host of professionals. Thus, accountants, tax advisors, businessmen, labor experts, lawyers and other professionals have

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<sup>1</sup>Statement of Ronald Goldstock. Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate. April 11-22, 1988. Pp. 695-6. U.S. Government Printing Office. Washington, D.C.

<sup>2</sup>The President's Commission on Organized Crime. The Impact: Organized Crime Today. Lawyers and Organized Crime. Washington, D.C.: U.S. Government Printing Office, April, 1986, p. 221.

become indispensable to make organized crime organizations effective and profitable.

Organized criminal group ventures, whether they involve the marketing of legitimate or illegitimate goods or services, must respond to the same challenges as any other business operation. They must:

- determine costs,
- set prices,
- market goods and services,
- purchase goods and services,
- maintain equipment
- keep track of costs and accounts receivables,
- pay bills,
- keep records (whether in their heads or on paper),
- collect payment for their goods and services,
- arrange for custody of revenues,
- develop business and marketing plans and defend markets against competitors,
- determine profits, and arrange payouts to owners for shares in the business,
- cope with government regulation, or the equivalent of such regulation (law enforcement), and
- retain professional assistance such as lawyers and accountants.

Thus, if an organized crime figure operates a trucking company, whether it is wholly legitimate or is used in part to transport stolen merchandise or contraband, the same services and functions may be required -- vehicles require maintenance and servicing, spare parts will be needed, and the trucks require lubricants. In addition business office functions will call for office help of various kinds, dispatchers, sales people, and probably a bookkeeper.

If the organized crime venture is an illegal one, such as an illegal gambling casino, it requires hardware. For example, if organized crime is operating a wholly illegal casino gambling operation, the operation requires hardware (in the form of gaming tables, slot machines, video gambling devices, and a variety of vending machines), which in turn requires servicing and maintenance. Such hardware in many or most instances will have a legitimate source -- originally manufactured and marketed by a legitimate enterprise. An

organized gambling operation may have obtained such hardware second-hand from a dealer in such merchandise, but that dealer is likely to also sell used merchandise to legitimate purchasers.<sup>3</sup> The gambling operation also requires people (i.e., dealers and cashiers) who must be located, hired and trained. If the casino operates in a fixed site (as many do), it will require the services of support personnel such as janitors, electricians and plumbers. Finally, the gambling operation will require people to carry out its business functions (i.e., bookkeeping, payroll, banking).

One case from the project data base illustrates the breadth of activities in which organized criminal groups engage. *United States v. Gaggi*<sup>4</sup> involved an auto theft ring in which automobiles were stolen, often to order, for shipment to Kuwait and other overseas destinations, such as Puerto Rico. Once the cars were stolen there was much to be done:

1. vehicle identification numbers (VINs) had to be counterfeited,
2. repairs were made to many of the cars,
3. odometers were rolled back,
4. marketing sources had to be developed and maintained,
5. fraudulent documentation of various kinds had to be provided,
6. paperwork for international trade, shipment and payment (e.g., bills of lading, letters of credit) all had to be prepared.

All of these activities required specialists. Mechanics were needed to work on the automobiles; skilled people were needed to counterfeit vehicle identification numbers and emissions testing certificates; export knowledge was necessary to prepare documentation for foreign shipment. Like many other operations conducted by organized crime there were related crimes, which in this case involved defrauding an insurance company through the filing of false insurance claims.<sup>5</sup> The *Gaggi* case describes a wide range of business-type

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<sup>3</sup>The same principle holds in a different organized crime context. In a discussion of hijacking it was noted that it could take several hours to unload the cargo from a hijacked truck. For this unloading process the trucks were usually taken to legitimate warehouses, where the people in charge of the warehouses had been paid off, both for the use of the warehouse and for their silence. The hijacker also made the point that there was a regular sale operation involving the hijacked goods, looking mostly for "legitimate businessmen" to buy the goods, such as "as drug wholesaler who had discount stores all over Long Island. He'd take almost everything I had. . . . Pileggi, Nicholas. (1985). *Wiseguy*. New York: Simon and Schuster, p. 91.

<sup>4</sup>This is described in the Brief for the United States in *United States v. Gaggi*, No. 86-1171 S.D.N.Y., 2nd Cir. (1986). The operation was under aegis of Paul Castellano, head of the Gambino Family.

<sup>5</sup>Another item of interest concerns the division of profits from the operation. For an organization of this complexity, the accounting procedure was surprisingly simple -- every Friday night the income from the week was divided at the group's clubhouse. The Kuwaiti contact paid the money to the experienced used car dealer who was working with the organized crime group, where it was divided among the "partners and the workers." Money was set aside for the purchase of necessary supplies and for the ordinary workers (who, incidentally, were paid on a piece work basis). ". . . In corporate-like fashion, worthy efforts for the group and its leadership were rewarded with promotions and other benefits, and struggles and sacrifices (such as arrests and incarcerations) were

activities and operational elements that are parallel to legitimate operations, and casts some light on how regular business operations in the legitimate sector are carried out by organized criminal groups.

Although the openness and range of such operations and services will clearly be greater when legitimate, overt business enterprises are involved, they will also be a factor with respect to totally illegitimate activities. The structure for dealing with these generic challenges may differ, however. Thus, the enforcement mechanism for collection of debts will, in the case of illegitimate activities, employ basically the threat or use of violence rather than collection letters and legal actions.

Regardless of their legal status, organized criminal business activities require legitimate services (even though many of these services, as discussed below, are provided with knowledge of the illegal nature of the activity). There are a number of questions about such legitimate services that were explored both through the project data base and the site visit interviews. First, what are the kinds of legitimate services required by organized criminal groups? Second, from what sources (legitimate or illegitimate) are such services obtained? Third, do some activities (legal or illegal) require greater utilization of or reliance on legitimate services? Finally, does use of or reliance on legitimate services create vulnerabilities for organized criminal groups that can be exploited by law enforcement?

### An Inventory of Services Used

An inventory of all the of the services that parallel those used in legitimate business, also used for the operation of an organized crime venture would be endless, as would be the case for any business. We gathered information on services used, from the indictments, complaints, and other public record information reviewed in the course of this study. Although necessarily incomplete, the inventory we developed should be taken as a good starting point (but no more than that) for examination of the likelihood that legitimate sources of goods and services were used.

Table 4.1 shows the services reflected in our inventory, together with the number of instances in which there were indications that such services were used in the 165 cases that constituted our project data base. In the discussion that follows, however, other information from public record documents and from our interviews with prosecutive and investigative supervisory personnel will be considered.

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recognized with fringe benefit payments of attorneys fees and family support." Brief for the United States in *United States v. Gaggi*, No. 86-1171 S.D.N.Y., 2nd Cir. (1986) at p. 6.

Table 4.1

**BUSINESS ACTIVITIES: LEGITIMATE SERVICES USED**

Service	Frequency
Financial Advice and Services	40
Banking	29
Advertising	27
Employee Benefit Services	24
Labor Services	22
Communications	17
Investment Services -- Legitimate Businesses	13
Credit	10
Real Estate Services	9
Legal Advice and Services	7
Lobbying	2
Insurance Services	2
Currency Transport	1
Customs Brokerage	1

There are aspects of the data in Table 4.1 that should be noted. In going through the indictments and other public record information that went into the project data base, every attempt was made to analyze the underlying business ventures and make reasonable inferences as to how they must have operated. For example, even in a patently illegal prostitution operation it would have been reasonable to infer that such an activity could not have been carried on without some form of book or record keeping -- in some instances such techniques were alleged or described in the pleadings, in others not.<sup>6</sup> The use of escort services to market sex services, it has often been noted, has been a cover activity implemented through Yellow Pages and other advertising. Topless bars are the frequent subject of local advertising, in newspapers and through billboards. Thus, the use of advertising was inferred in a case where several topless bars were in operation and where skimming of revenues and public corruption figured in the pleadings.<sup>7</sup>

Since not all aspects of business operations alleged in the pleadings and related public record information were described in these materials in sufficient depth to permit inferences that would have logically flowed from greater awareness of the facts underlying the charges, one may speculate that the number of instances of utilization of services are substantially in excess of that recorded in Table 4.1.

It is not surprising that there is so little reference in the indictments and other public record information to services used by organized criminal groups, even where these materials elaborately outline the *modi operandi* of the crimes charged and the activities of the ventures in which these groups engaged. Such information is often of only peripheral

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<sup>6</sup>In *United States v. Panno*, IL-326, the operations of a prostitution ring were highly organized. They had three personal computers, 5 computer monitors, and data base software to keep track of their business records.

<sup>7</sup>*Arizona v. Colacurcio*, AZ-60.



concern when the time comes to sit down and draft an indictment, even though the evidence gathered to support the indictment and trial may have been based on exhaustive inquiries into how these services were utilized and acquired.<sup>8</sup>

In interpreting Table 4.1, it should be kept in mind that all but 5 of the cases in the project data base were criminal cases. Therefore the business type activities cited played some significant role in criminal activities themselves, and cannot be minimized as relating only to the purely legitimate activities of the defendants. Under these circumstances it is instructive to note that in 40 of the 165 cases in the project data base (24%) the defendants had recourse to outside financial advice and services in connection with aspects of their criminal activities. In 17.5% of the cases they utilized banking services, and in 16% of the cases they employed advertising services.

Specialized services are to be found within these broad categories. For example, the listings for labor services and employee benefit services also included the use of consultants, to help with setting up a scheme. As noted earlier, in one case a dentist was hired by those in control of a union to set up a dental plan so that defendants could milk it (32% for benefits and 68% for overheads, profits, and commissions).<sup>9</sup>

Our understanding of the scope and nature of the legitimate services used by organized criminal groups was greatly expanded through site visit interviews with investigators and prosecutors. In addition to expanding the inventory of legitimate services used, the interviews added detail to the information contained in the indictments, complaints and public record data that went into the project data base.

The consensus among those who we interviewed was that in regard to the need for services parallel to those used in legitimate business, there is no difference between organized crime and legitimate business. Any service that a legitimate business might need might also be needed and used by organized criminal groups in the operation of businesses.<sup>10</sup> Thus, the inventory developed in Table 4.1 is not intended to provide comprehensive coverage of all such services used by organized crime. Rather, its purpose is to provide a basis for examination of the general ways in which such services contribute to organized crime's involvement in business activity. The materials in the following categories of legitimate services are derived from interviews, reviews of the literature, indictment, complaints, trial transcripts and other public record information.

**Legal Services.** Legal services are often the first mentioned in the context of legitimate services used by organized criminal groups, usually in the context of defense against criminal charges. However, the scope of legal services used by organized crime go far beyond this narrow set of legal activities.

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<sup>8</sup>Note that in *United States v. Salerno*, evidence emerged at the trial to show defendants' utilization of the services of lawyer Roy Cohn, which did not appear in the pleadings but were of sufficient import to warrant attention in the prosecutor's summation to the jury. *Salerno* Transcripts at pp. 18995, 1896, 19001

<sup>9</sup>President's Commission on Organized Crime. Organized Crime and Labor-Management Racketeering in the United States: Record of Hearing VI (April 1985 at p. 462. Washington, D.C.: U.S. Government Printing Office.

<sup>10</sup>Personal communication.

The attorneys used by organized crime fall into two major groups: (1) the "lawyers for organized crime," and (2) "organized crime lawyers." Attorneys in the former group generally are highly paid and respected outside attorneys who are called upon when organized criminal figures have criminal troubles. These lawyers for organized crime typically are available only to organized crime members at the higher levels of the organization. The latter group, organized crime lawyers, are analogous to corporate in-house counsel, and have little stature within organized crime or the legitimate bar, and are usually not very well compensated.

The President's Commission discussed the same groupings of attorneys, making the distinction between (1) lawyers representing criminals, and (2) "lawyer-criminals."<sup>11</sup> The President's Commission discussion contains a number of interesting parallels with the roles of lawyers in legitimate businesses. For example, legitimate corporate counsel face the question "Who is the client?" when representing individuals within the corporation.<sup>12</sup> This is well illustrated by the testimony of Martin Light, an attorney who testified to his intimate involvement with organized crime activities, who told the President's Crime Commission on Organized Crime that he would be assigned to represent detainees who had just been arrested, before they even had a chance to call him. Here the client would appear to have been the organization rather than the individual detainee.<sup>13</sup>

Similarly, lawyers can find themselves aiding a client (directly or indirectly) in the commission of crimes or other violations of law. Another case described by the President's Commission concerns an attorney who ended up as a "lawyer-criminal" as a result of the activities that he undertook on behalf of clients. This attorney initially specialized in civil matters and did not represent organized criminal figures. However, he became dependent on cocaine and ended up developing an advisory and representational relationship with drug groups. The President's Commission noted that:

his services helped the organized crime operation to purchase and control a Florida bank, thus facilitating a ready-made, high volume money laundering mechanism. Slatko and other lawyers were necessary to handle the organization's complex legal and financial transactions.<sup>14</sup>

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<sup>11</sup>The President's Commission on Organized Crime. The Impact: Organized Crime Today. Lawyers and Organized Crime. Washington, D.C.: U.S. Government Printing Office, April, 1986, p. 221.

<sup>12</sup>A corporate officer represented by in-house legal counsel may well be represented by someone whose first allegiance goes to the corporation, not the individual officer.

<sup>13</sup>At p. 340 of the President's Commission. The question under these circumstances is exactly the same as that encountered by corporate counsel -- i.e., who is the client, the individual or the organization?

<sup>14</sup>The President's Commission on Organized Crime. The Impact: Organized Crime. Lawyers and Organized Crime. Washington, D.C.: U.S. Government Printing Office, April, 1986, p. 238. The President's Commission went on to note that Slatko actually recruited a team of lawyers (p. 239), all civil practitioners, giving them money to purchase condominiums as safe houses for drug couriers and drug transaction sites.

The trial transcript in *United States v. Salerno*<sup>15</sup> illustrates the potential for use of attorneys in ways that quite parallel their use in the legitimate sector -- exploiting legal tools to pressure the press and exploitation of the attorney client privilege. In his closing to the jury, the prosecutor referred to attorney Roy Cohn's assistance to Salerno, to protect Salerno because of Salerno's possibly misplaced trust in Jackie Presser, the International President of the Teamster's Union. When rumors had first circulated that Presser as a government informant, Salerno had defended him against these charges in the councils of organized crime. When these rumors turned into more reliable accounts, Salerno was embarrassed by a story to this effect in a Cleveland newspaper. Like any corporate official, seeking to quash a story that might be troublesome to him, Salerno had Cohn contact the publisher of the newspaper to get a retraction of the story -- a successful contact.<sup>16</sup>

Cohn was also alleged by the prosecutor to have lent his offices, and the attorney-client privilege, to Salerno's ongoing efforts. Salerno and his associates were always very concerned about electronic surveillance. To avoid such surveillance, Salerno frequently made use of Cohn's law offices as a meeting place on the assumption that they would not be bugged. There was evidence that Cohn did not attend these meetings since he left the building while Salerno and others were still in his office.<sup>17</sup> This was not a unique exploitation of the privilege. As one witness told a Senate Subcommittee:

I should point out to you that the reason we held this "sitdown" at Ellis' office was due to the fact that Ellis is an attorney and we could use his office and discuss "family" business without worrying about being "bugged" by law enforcement.<sup>18</sup>

There was also evidence to indicate that Salerno had used lawyers as couriers to hide the movement of cash payoffs between union officials and major organized crime figures.<sup>19</sup>

From our data and interviews, the conclusion is inescapable that it would be shortsighted to focus only on the role of attorneys as legal defenders of organized crime figures, whether they be outside attorneys or the equivalent of in-house counsel. A more realistic approach would consider all of the ways in which a sophisticated legitimate business would invoke the services of a broad range of legal practitioners, and to examine the needs and requirements of organized criminal groups against this backdrop. And, from

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<sup>15</sup> *Salerno* Transcript at p. 18995, 18996.

<sup>16</sup> *Salerno* Transcript at p. 18995, 18996.

<sup>17</sup> *Salerno* Transcript at p. 19001.

<sup>18</sup> Affidavit of Vincent Cafaro. Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs. April 11-22, 1988, at p. 895. Washington, D.C.: U.S. Government Printing Office.

<sup>19</sup> *Salerno* Transcript at p. 19035.

the Salerno Transcript, it is clear that there is no impenetrable barrier to prosecutive use of non-traditional attorney-client relationships in proving a case.<sup>20</sup>

**Accounting.** Accounting services are part and parcel of the series of financially oriented services that are relied on heavily by organized criminal groups. Formal accounting services and advice are generally only used by organized crime figures who occupy high positions in the organization -- those individuals lower in the hierarchy probably do not require such services. As providers of personal services to individual organized crime figures, accountants are particularly important professionals who are almost always in-house specialists,<sup>21</sup> occupying a special position of trust.<sup>22</sup>

Contrary to the special position occupied by personal accountants to individual organized criminal figures, organized criminal businesses at all levels may also make use of legitimate accounting services in the same way as a legitimate business.

An example of the extent to which organized crime businesses must use accounting services (whether legal or illegal) is illustrated by the accounting problems faced by organized crime groups involved in construction-related corruption and racketeering in New York City:<sup>23</sup>

Almost all forms of construction-related corruption and racketeering involve some form of tax fraud. A contractor desirous of making illegal payments faces two problems: in addition to generating cash, he must disguise the payments as legitimate business expenses. The disguise is necessary to conceal the illegal payments and to permit them to be claimed as legitimate business deductions. Cloaking illegal payments as legitimate business expenses requires fraudulent manipulation of business records, which itself constitutes a crime. Likewise, recipients of illegal payments may face tax problems if they are unable to provide legitimate explanations for substantial criminal income. To avoid such problems, they may launder their bribes by falsifying records or engaging in artificial transactions designed to hide their true criminal character.

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<sup>20</sup>Salerno Transcript at p. 18995, 18996.

<sup>21</sup>Specialized services such as accounting are provided in-house because of the particularly sensitive nature of the information to which an accountant must have access. In addition, the issue of trust is paramount at the level at which such in-house specialists work. It is highly unlikely that an organized crime leader would trust an outsider with information relating to the acquisition and disposition of income received at the highest levels of an organized crime group.

<sup>22</sup>"Accountants are like the bad guys' priests -- they are picked very carefully." Personal communication. Similarly, "if an organized criminal group or individual is involved in obvious criminality, they probably have their own 'knowledgeable' accountants who work exclusively in-house. Personal communication.

<sup>23</sup>New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987, p. 28.

**Banking.** Banking is among the most important legitimate services needed or used by organized crime,<sup>24</sup> and such services are used in a variety of ways. Money laundering is only the most obvious of such uses and can be seen in many different contexts from the large-scale operation to the small.

Although money laundering is just one of the services that can be provided by banks and other financial institutions, it does illustrate many of the facilities that banks can provide. For example, cash can be brought to a bank in amounts under \$10,000 to avoid triggering federal reporting requirements, which can set in motion a chain of other possibilities. Cashiers checks can be purchased, which can be negotiated, sent abroad, or used as a basis for purchases of certificates of deposit or other investments. The stage can be set for cross-dealing, for example by depositing funds in bank on favorable terms for the bank, a union officer was able to borrow substantial funds without collateralizing his loan.<sup>25</sup>

The lending function of the bank can be a platform for many forms of organized crime activity. This often involves collusion, or at least "understandings" between organized crime figures and banks. For example, a union officer can deposit funds in a bank on favorable terms for the bank, and then be able to borrow substantial funds without collateralizing his loan.<sup>26</sup> Loan applications can be falsified to justify loans to obtain approval from bank loan committees.<sup>27</sup> Stolen securities also have been used as collateral for loans.

**Bookkeeping.** In addition to the more sophisticated aspects of business-related financial activities (e.g., accounting and banking), organized criminal activities at all levels may make extensive use of more common bookkeeping services. Thus, bookkeeping played an integral role in the following business activities described in *United States v. Ciccarell*<sup>28</sup>:

1. Any Auto Co. was set up by defendant with inventory derived in part from Hamilton Auto Salvage (a company also owned by defendant). The inventory was paid for in cash and the transaction did not show on the books of Hamilton Auto.
2. Any Auto's inventory showed on the books as being from Scott Auto, a company that did not exist.

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<sup>24</sup>Personal communication.

<sup>25</sup>*United States v. Robilotto*, NY-127.

<sup>26</sup>*United States v. Robilotto*, NY-127.

<sup>27</sup>*United States v. Porray*, NV-401, and *United States v. Kimball*, NV-420.

<sup>28</sup> FL-433.

3. Any Auto checks were issued payable to Hamilton Auto for the purchase of auto parts. The checks were cashed by defendant and the proceeds retained by him.
4. Hamilton Auto checks were also written to other nonexistent auto parts companies for parts purchases, but all checks were cashed and proceeds retained by defendant.

Even this relatively simple set of transactions, if it is intended to function for any length of time, requires careful bookkeeping in order to keep the exact nature of the transactions hidden.<sup>29</sup>

Bookkeeping is a key, necessary ingredient in skimming operations since the receipt and disposition of cash monies must be cloaked, yet there must be some control over skimmed funds. It is important that this take place at the source of the funds, and in a time frame that is roughly contemporaneous with the receipt of the funds. In one case that can hardly be called unusual, misleading records were kept on a daily basis related to the basis of compensation of topless dancers and payment of sales tax -- and complicated records were kept that one might infer were set up by bookkeepers or accountants.<sup>30</sup>

**Travel and Transportation Services.** The services of travel agencies, travel planners and other adjuncts (parcel and air freight services) to transportation play an important role in organized criminal activities. Such services have been used for recruitment of personnel, and to further the work of couriers who may carry cash, drugs and other merchandise. In *United States v. Chang An-Lo*,<sup>31</sup> there were clear linkages with the travel industry through travel agents in Taiwan who arranged foreign and domestic travel to Taiwan, Argentina and the Phillipines.

**Communications.** A variety of communications services are used by organized criminal groups in a number of different circumstances. In legal business activities, the entire range of traditional telecommunications services may be used. In pursuit of illegal activities, organized crime has found it advantageous to make use of more sophisticated communications technologies. For example, gambling operations have begun to rely on such things as beeper services,<sup>32</sup> and the call forwarding and call waiting capabilities of telephones. And as a result of their increasing awareness of their own vulnerability to wiretapping capabilities, organized criminal groups have increased their use of cellular

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<sup>29</sup>The indictment notes that the books and records of Any Auto and Hamilton Auto were turned over to accountants who relied on them in the preparation of tax returns.

<sup>30</sup>*Arizona v. Colacurcio*, AZ-60.

<sup>31</sup>NY-79.

<sup>32</sup>In a case, an attorney reputedly working with organized crime actually owned a beeper company that was one of the main companies heavily used by street-level organized crime members and associates. As a result of this tie-in, the attorney was in a position to selectively withhold subpoenaed records relating to communications among the organized crime group. Personal communication.

telephone technology.<sup>33</sup> The importance of these communications modalities to organized criminal groups, and the advantages that they bring to organized criminal business activities should not be underestimated.

**Real Estate Services.** The needs of organized criminal groups for real estate services covers a broad range of illegitimate and legitimate operations. Leasing or purchase of premises are required for operations of ventures such as restaurants, offices for trucking companies, or investment in real estate. Typical is the use of a real estate agent, also a defendant in the criminal case, to provide leases in the names of nominal owners of liquor and adult entertainment businesses -- a service required because the true owners were did not have a sufficiently clean record to obtain the requisite licenses.<sup>34</sup> Real estate agents play a role in the identification of properties for leasing or purchase. They have also been used to negotiate leases for businesses established as fronts for illegal activities.<sup>35</sup>

Real estate services also provide a platform for exploitation of the property acquisition function. The purchase or financing of real estate in which real estate or mortgage brokers play essential middleman roles can be tailor-made for abuses of trust and kickbacks. In one case a real estate mortgage broker was the agent for a union welfare benefit fund, charged with responsibility for identifying and acquiring commercial real estate mortgages for the fund. This responsibility was constrained by a provision that the funds' monies not be used for the development of bars, taverns, or restaurants. Notwithstanding this restriction a \$375,000 loan was made to finance the purchase of a restaurant and lounge, in return for cash kickbacks to the mortgage broker and expensive hospitality extended to the mortgage broker and his family at a hotel owned by the borrower.<sup>36</sup>

**Courier and Messenger Services.** The interviews conducted with law enforcement supervisors make it clear that organized criminal groups have become more and more sensitive to the dangers of electronic surveillance. They clearly are hesitant to use telephones, and search for alternate methods of communication. As a result they have turned to courier and messenger services.<sup>37</sup> However, it is not entirely clear why this is happening because the risk to security of organized crime group communications from the use of such services is clearly greater than if associates carry messages or packages.

**Securities Brokerages.** Securities brokerage accounts are used by organized criminal groups for many purposes, many of which are analogous to the use of banks. Investment of funds that have already been laundered, or funds earned in legitimate

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<sup>33</sup>Personal communication. Several small cellular switching companies were owned or controlled by organized crime. As a result switching records, thought to be incriminating in a case against a subscriber, were withheld from a subpoena.

<sup>34</sup>*United States v. Leary*, MA-365.

<sup>35</sup>*Arizona v. Tocco*, AZ-67, involved establishment of fronts for prostitution.

<sup>36</sup>*United States v. Mercer*, FL-424.

<sup>37</sup>Personal communication.

enterprises, are obvious examples. These organizations can, however, play a clear role in money custodial and money laundering functions of organized crime. One case suggests almost a paradigm of such operations<sup>38</sup> involving the following steps:

1. purchase of cashiers checks and certificates of deposit by a colluding account executive acting on behalf of organized crime figures, presumably in amounts under the \$10,000 federal reporting limit.
2. opening of accounts in the securities firm, in fictitious names, by the colluding account executive, to accept the cashiers' checks and the certificates of deposit.
3. through these fictitious name accounts, purchasing certificates of deposit and other investments -- leaving the true owners of the accounts in a position to continue to transfer funds, invest funds, and draw the interest (through cashing bond coupons).

The maintenance of a securities account can also be a vehicle for fraud, also with the collusion of an insider in a securities firm. In *United States v. Inserra*,<sup>39</sup> the target of the fraud was a Teamsters local. The defendants, exercising their power over the financial management of the union's resources, established a trading account with a securities firm. Securities were purchased and held in the account for a period of days, and the scheme operated as follows:

1. securities that rose in value while being held were transferred to the accounts of friends, relatives and associates of the defendants. Defendants also took a percentage of the profits made on such transactions.
2. securities that fell in value were transferred to the Teamster's account also maintained at the same brokerage firm.<sup>40</sup>

From the limited information available in the project data base, and interviews with law enforcement agency personnel, it appears that collusion between securities firm insiders and organized crime figures is likely to be an essential ingredient in securities firm - organized crime transactions, and should always be considered as a possibility where the existence of such accounts surface in the course of investigations.

**Health Care Services.** Health care services utilized by organized criminal groups fall into two general categories: (a) personal medical services for members and associates of these groups, and (b) medical and dental services central to organized crime money-making schemes.

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<sup>38</sup>*United States v. E.F. Hutton*, RI-563.

<sup>39</sup>NY-609.

<sup>40</sup>These transactions were accomplished using a "trade error correction request" -- a form designed to correct errors in securities trading after the settlement date has passed (i.e., the last day on which payment for securities may be made).



In the personal category there is, of course, the first and most obvious need for physicians who will provide medical services without making reports to law enforcement authorities. No specific instances of such services surfaced as part of the project's data base, nor were they discussed in our interviews with law enforcement agencies. In the interviews, however, there was mention of the existence of a body of physicians who are available to provide "instant heart attack certificates" for organized crime figures who have been arrested and facing trial.<sup>41</sup> No one who follows trials in the media can avoid noticing the frequency with which motions are made to avoid trial, or seek trial delays, on the basis of a defendant's health problems. Many of these motions are granted, perhaps inevitably, in light of gerontological concentrations among organized crime leadership, but the overwhelming portion are turned down after court inquiry.

Organized criminal group control over many trade unions also provides an arena for exploitation of health and welfare funds. In some instances this exploitation takes the form of kickbacks from medical and dental providers. In others, organized criminal groups actually establish provider organizations from which they profit.<sup>42</sup>

**Automobile Dealers.** Organized criminal groups use automobile dealers and auto dealerships for a number of purposes. There is some validity to the stereotyped image of the "mob guy" in the flashy car -- organized criminal figures often drive such automobiles. In addition, organized criminal groups often have open or covert equity or debt (e.g. through loansharking) interests in car dealerships, with consequent leverage to provide automobiles or automobiles at no cost or at a cost that is not economically viable to the dealer. In some instances this has led to failure of such agencies. Typical was one Ohio case in which a car dealer was heavily in debt to an organized crime gambling operation. In lieu of direct repayment of the debt, automobiles were leased through the dealership to the gambling operators, who made no lease payments, leaving it to the dealer to make the payments in their stead.<sup>43</sup>

**Printing Services.** Many organized criminal activities, both illegal and legal, make use of printing services, as broadly defined. There is no reason to believe that organized criminal groups do not use duplicating machines, and perhaps duplicating services to provide many of the forms that they must use in their ventures, and also auxiliary services involving the maintenance of duplicating machines. Printing is generally needed to the same extent as in legitimate business and for the same purposes. Gambling operations are extensive users of printing services, including printing gambling pool

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<sup>41</sup>Personal communication.

<sup>42</sup>See, for example, *U.S. v. Accardo*, FL-78 and the testimony of Dr. Dominic V. Aiossa in President's Commission on Organized Crime, Record of Hearing VI (April 22, 1985), Organized Crime and Labor-Management Racketeering in the United States. Washington, D.C.: U.S. Government Printing Office, at p. 462 et seq. In the dental clinic established by Dr. Aiossa only 32% of the approximate \$5 million paid for benefits actually went for such benefits, the rest going for "overheads, profits, and commissions." (p. 521).

<sup>43</sup>See *United States v. Dileno*, OH-229. Auto dealerships are also the source of leased automobiles, which are increasingly popular with organized crime figures as a way to avoid asset ownership and consequent exposure to forfeiture.

tickets, other printed forms and carbonless duplicate forms.<sup>44</sup> In virtually all organized crime cases involving frauds business forms and solicitation forms have been printed by commercial services. In counterfeiting of credit cards printing services are also essential; in one case involving the counterfeiting of 20,000 credit cards ". . . seized was printing equipment, including plates, presses from three different printing plants in Manhattan."<sup>45</sup>

**Miscellaneous Services Used.** It is clear that there is a universe of services that can, or must be brought into play in the organized crime arena, whether legitimate or illegitimate activities are being considered. Some unique new applications came to our attention, particularly from site visit interviews at enforcement agencies. These applications involved both direct and indirect relationships with suppliers of services.

(1) **Ohio State Lottery.**<sup>46</sup> The state lottery in Ohio has become a direct competitor with organized crime in the gambling market, the main effect being to draw off players from the organized crime numbers business.<sup>47</sup> Organized crime has taken an unusual step to recapture the portion of the market siphoned off by the state lottery. The approach taken has been to run the illegal numbers games as a parallel to the state lottery, using the winning numbers generated by the state and paying off on the same daily and weekly schedules. The key difference is that the numbers game is structured to provide odds that are a bit more favorable to players than are those of the state lottery. Making use of the state lottery in this way has had several affects on the numbers game that have enhanced its reputation. Because of reliance on the numbers drawn and published by the state lottery, there is no longer any potential for controversy about winning numbers and the overall "integrity" of the numbers game has increased. In addition, the numbers operators actually "lay off" some of their bets against the state lottery -- if too many numbers players purchase a given set of numbers, the operators lay off some of the bets by purchasing legal state lottery tickets for the same numbers. If those numbers hit, the numbers operators use the proceeds of the winning state lottery tickets to pay off winners in the illegal numbers game.

(2) **Quasi-Financial Services.** Organized criminal groups have begun to take advantage of the services offered by an increasing number of quasi-financial institutions in an unusual way.<sup>48</sup> Because of the importance of money orders and cashier's checks for

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<sup>44</sup>Personal communication.

<sup>45</sup>Statement of Thomas A. Constantine of the New York State Police. Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate (April 11-29, 1988). P.1096. U.S. Government Printing Office, Washington, D.C.

<sup>46</sup>Personal communication.

<sup>47</sup>Non-criminal competition for organized criminal gambling operations is seen as very strong in states, such as New York, where there are legal state lotteries and state-run off-track betting on horse racing. Personal communication. The Ohio Lottery example is an interesting example of the ways in which organized criminal groups have responded to competitive forces in the marketplace.

<sup>48</sup>In one case, organized crime actually established a finance company and loaned money through it, using its regular network of collectors to collect weekly payments. Personal communication. In another case, the records of an auto chop shop were seized. They showed a system of fictitious auto repair companies and a pattern of

laundering money, it is important for organized criminal groups to have a "safe" source for such financial devices.<sup>49</sup> In order to avoid the suspicion that might be aroused by repeated use of traditional banks for cashier's checks and money orders there is growing evidence that organized criminal groups use convenience stores, check cashing outlets and other non-banking outlets that sell money orders.<sup>50</sup>

(3) **Electronic Security Services.** Previous note has been taken of the sensitivity of organized crime groups to the danger that they are or will be subjects of electronic surveillance. They may be expected to take every possible measure to avoid exposure to electronic surveillance, whether in their homes, clubhouses, places of business, automobiles, or when associating or interacting with their confederates. It is instructive, as noted above, that at least one organized criminal group is the sole employer of an electronic security specialist, originally a security and alarm consultant in legitimate business, who provides wiretap and electronic sweeping services to the group.<sup>51</sup>

(4) **Lobbying and Public Relations.** One of the things that legitimate businesses feel they require is public relations support. For example, Exxon is spending a large amount of money to offset the public relations damage done by the oil spill in Prince William Sound, Alaska. Organized criminal groups are no exception to the rule that "image counts." One of the clearest examples of this is the establishment of the Italian-American Civil Rights League.<sup>52</sup> The League was founded by New York organized crime figure Joseph Colombo, Sr., and worked in a number of areas of the United States.

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laundering proceeds of the operation through a currency exchange. State of Elgia C. Cook (Chicago Police Department). Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate. April 11-22, 1988, p. 1183. Washington, D.C.: U.S. Government Printing Office.

<sup>49</sup>John M. Walker, Jr. (Department of the Treasury) testified (pp. 151 et seq., Organized Crime and Money Laundering, Record of Hearing II, President's Commission on Organized Crime (March 14, 1984). Washington, D.C.: U.S. Government Printing Office) about particular techniques of money laundering. Though he was focusing on drug money laundering, he said that what he was describing should be regarded as relevant to criminal proceeds of other illegal activity. He provided a good description of what goes on with currency exchanges:

The currency exchange or other business could process the crime proceeds under the cover of the business and withdraw it in the form of cashier's checks. These checks would be payable not to the criminal clients, but to their intended payees or to individuals whom they control. Other cashier's checks would be carried abroad to pay the foreign (drug) source of supply.

<sup>50</sup>Personal communication. The question remains whether currency transaction reporting requirements apply to such non-bank institutions. The evidence suggests that if such regulations do apply, they are not being monitored or enforced so as to deter organized crime from using these outlets as a funnel for money laundering.

<sup>51</sup>Personal communication. This individual was originally a security and alarm consultant in legitimate business before becoming affiliated with organized crime.

<sup>52</sup>Formation of the League is described at some length in Pennsylvania Crime Commission. (1980). A Decade of Organized Crime: 1980. St. Davids, PA: Pennsylvania Crime Commission. The report points out that Nelson Rockefeller, when he was governor of New York, accepted honorary membership in the League. Additionally, Ford Motor Company assured the League that in the television series it sponsored, FBI agents would not track down criminal belonging to the "mafia."

There are other instances in which organized criminal groups have engaged the services of lobbying and public relations specialists. For example, the trade association (which was also under the influence and control of organized crime) representing the carting industry in New York made a concerted effort to get out "the other side of the story" during the investigation and prosecution of the carting cases.<sup>53</sup> Similarly, labor unions that are controlled by organized criminal groups have engaged in a long-term lobbying campaign to amend the RICO statute.<sup>54</sup>

(5) **Intelligence.** Every legitimate business enterprise has recourse to the intelligence function to help with marketing and defend against competitors. Organized criminal groups have the same needs. For example, in *United States v. Recarey*,<sup>55</sup> the defendant made extensive use of wiretapping and eavesdropping in order to obtain information needed to pursue his scheme.<sup>56</sup> On one level organized criminal groups have obvious needs: (1) monitoring of the activities of subordinates for management purposes, (2) information on the activities of criminal associates who might threaten their leadership, (3) information on competing criminal organizations, and (4) information on the activities of law enforcement agencies.<sup>57</sup> Beyond this, however, are more sophisticated and business-like implementation of intelligence gathering to implement and protect criminal operations.<sup>58</sup>

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When the movie "The Godfather" was being filmed in New York City, the word "mafia" was struck from the script at the request of the League (New York Times, National Edition, "Rackets Laws Lead to Changed Attitudes on Mafia," p. 11, c. 3, 9.20.86. This is particularly interesting since, as the lead story points out, defense attorneys conceded in one of the major prosecutions of organized crime figures in New York that "the Mafia existed and that their clients may even have been members of it."

<sup>53</sup>Personal communication. See also, New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

<sup>54</sup>Personal communication.

<sup>55</sup>FL-428.

<sup>56</sup>The defendant set up a separate office and employees were hired to review wiretap tapes and to prepare transcripts and summaries of the intercepted conversations. In addition, security measures were implemented to maintain secrecy, including the use of trusted couriers to transport tapes. Defendant also maintained physical surveillance on an individual who was suspected of being a government informant.

<sup>57</sup>The indictment in *United States v. Mauro*, NY-131, alleges that one of the defendants obtained information from the NCIC (National Criminal Information Center?) computer. The indictment does not explain what information was sought or why it was needed. In *United States v. Giacalone*, MI-91, the indictment alleges that one of the purposes of the criminal organization was to provide its members with the information and means necessary to escape or avoid detection by law enforcement. One defendant in the group was responsible for understanding and presumably counteracting physical surveillance and telephone surveillance. Another defendant was responsible for giving advice to the organization regarding what was needed for the government to bring a federal indictment for conducting an illegal gambling business -- presumably so that defendants could avoid conduct that would be indictable under federal law.

<sup>58</sup>In a counterpart to industrial espionage, defendants in *United States v. Gaggi*, No. 86-1171 S.D.N.Y., 2nd Cir. (1986) obtained inside information about "sources of supply" -- in this case automobiles that were to be stolen to

In the New York concrete construction industry scheme, which involved the rigging of bids on all major jobs in Manhattan, it was important to know which jobs were coming up for bids. In a manner quite similar to any legitimate bidder, intelligence was gathered:

The members of the club used to read the Dodge Reports. The Dodge Report is a construction trade publication that lists the upcoming jobs. The club members split up all of the jobs over \$2 million. . . .<sup>59</sup>

Intelligence gathering on the activities of law enforcement agencies have traditionally involved attempts to subvert individuals within police or prosecutive agencies. In a manner reminiscent of how legitimate business organizations hire law firms and investigators to defend against tax, anti-trust, or securities investigations, one organized crime figure in a position of responsibility in a trade union had his organization pay more than \$200,000 to a private investigative agency to keep track of a federal investigation into corrupt union practices.<sup>60</sup>

(6) Consultant Services. A wide variety of consulting services are used by organized criminal groups. In some instances the services are in fact of value to the purchasers, whether the underlying venture be illegitimate or legitimate. In others, the services may be of questionable or no value whatsoever. The two distinct purposes of purchasing consulting services appear to be:

1. to develop the expertise needed to establish and conduct an enterprise, e.g., to develop and run a union welfare or benefit fund<sup>61</sup> or any other kind of business enterprise,<sup>62</sup> and

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order. A corrupt New York City police official used the police computer to check records in the Department of Motor Vehicles to identify and locate the specified make, model and year of cars to be stolen.

<sup>59</sup>Affidavit of Vincent Cafaro. Hearings, Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, U.S. Senate. April 11-22, 1988, p. 889. Washington, D.C.: U.S. Government Printing Office.

<sup>60</sup>The President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions, p. 157. Washington, D.C.: U.S. Government Printing Office (March 1986).

<sup>61</sup>The President's Commission took extensive testimony from an Ohio dentist describing how he had been hired by an individual (Cantazaro) connected with the union, who knew nothing about providing dental services and had no organization, to set up a dental clinic for union members, staff the clinic and get it running. From Cantazaro's point of view the dental clinic was just another business and a way to make money from his influence with the union. Of the \$5 million in premiums that went to Cantazaro's operation, 32% went for benefits and 68% went for overhead, profits and commissions. The President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (March 1986), p. 462 et seq.; p. 521.

<sup>62</sup>In *Arizona v. Tocco*, AZ-64, consultants were called in to provide management consulting and advisory services to those operating businesses that served as fronts for prostitution.

2. as a conduit for illegal schemes to siphon money out of a union or other legitimate business, in place of under-the-table kickbacks.<sup>63</sup>

Unions provide an especially attractive target for the use of consultants for both of these purposes. Thus:

An army of foot soldiers in the form of professional asset managers, fund administrators, insurance providers, dentists, and accountants front for organized crime in its manipulation of union benefit funds. . . . So-called service providers, complete with an infrastructure of overlapping shell organizations, gives the mob the means to launder benefit funds' assets from union members and union treasuries.<sup>64</sup>

The fact that there appears to be a legitimate purpose for a consulting service should not be taken as any indication that the facts comport with underlying realities. Consulting services can simply be a cover for a wide variety of other schemes. The President's Commission on Organized Crime expressed its skepticism of one particular transaction:

In the 1970s, Jackie Presser was also an integral part of a multi-year contract between the IBT and Hoover-Gorin and Associates, a public relations firm. Under the terms of the contract, the IBT was to pay the firm \$1.3 million a year for advertising and public relations work . . . The choice of Hoover-Gorin and Associates was a surprise because, prior to obtaining the IBT contract, the firm had gross receipts of less than \$20,000 per year, and the firm's partners were completely inexperienced in public relations work. . . .<sup>65</sup>

The Commission then noted that IBT officers instructed the public relations firm were directed by the IBT officers to make payments to organized crime figures, and "According

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<sup>63</sup>For example, Thomas Shaheen, through his connections with a union and its pension fund, arranged for loans to:

. . . . near bankrupt companies desperate for quick cash. From a single loan to a California land company he collected \$112,597 in fees, plus \$25,000 in negotiable notes, consultant agreements worth \$144,000, and title to 100 acres of valuable land.

Shaheen and the president of the union siphoned off about \$2 million. President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (October, 1985), p. 38-39.

<sup>64</sup>James D. Harmon, Jr., Executive Director and Chief Counsel of the Crime Commission. Record of Hearing VI (April 22-24, 1986), Organized Crime and Labor-Management Racketeering in the United States. Washington, D.C.: U.S. Government Printing Office, p. 455.

<sup>65</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (October, 1985), p. 108.

to Hoover-Gorin partner Harry Halper, Presser received substantial kickbacks from various participants who profited from the (public relations contract).<sup>66</sup>

In their fundamentals organized criminal business-type activities do not differ in any discernible way from legitimate business enterprises in terms of the need for and utilization of legitimate services. In the same way as a legitimate businesses, organized criminal groups can be expected to make use of every service, draw upon every source of expertise, and rely on any information that will enable them to more competitively and profitably carry out their business-type activities.

### Criminal Purposes and Utilization of Legitimate Services

A question of potential importance to law enforcement agencies is the extent of the relationship between particular organized criminal group activities and the extent to which they use different kinds of legitimate services -- in other words, are there particular illegal activities that require greater utilization of particular legitimate services and if so, what are these services and how are they purchased and utilized. This information can be valuable because it can help investigators and prosecutors construct a more comprehensive picture of the nature of the organized criminal group activity being investigated, and thus to identify sources of leads and potential evidence.<sup>67</sup>

It should be noted that it is not illegal for a legitimate business to sell to or provide services to a business owned or operated by organized crime figures. So long as the services provided are legitimate and do not involve violations of the law (or codes of professional conduct that govern such groups as lawyers and accountants), there is little incentive or reason for such business to be refused.<sup>68</sup> By the same token, such providers are more likely to keep good books and records of all their transactions (paperwork subject

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<sup>66</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (October, 1985), p. 109.

<sup>67</sup>It is certainly not illegal for a legitimate business to provide services to a business owned or operated by an organized criminal figure. So long as the services provided are legitimate and do not involve violations of the law (or codes of professional ethics for providers such as lawyers or accountants), there is little incentive for refusing the business.

<sup>68</sup>A good example of this comes from the testimony of Frank Perdue, the chicken entrepreneur, who considered his relationships with known organized crime figures to be a "matter of business and the bottom line." His testimony indicated that he was not forced in any way to deal with organized crime-controlled enterprises and that for business reasons he did not do so for a considerable period of time. But then, according to Perdue:

I decided that if I could be protected, that I would get my share of his (Peter Castellano's) business. But he had to give us a letter of credit, like he has to give all the other shippers who ship to him so the shipper is protected. And then, if he doesn't give me a problem, harassment, you know, cancelling or things like that, that a guy like Fancy would do, I have no problem dealing with him. I know what he is. But I have my money; he unloads my trucks on time. We have no problems. He pays his bills.

President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office (October, 1985), p. 204 This "strictly business" rationalization loses some of its moral force when Perdue admits approaching Castellano for help when the Teamsters were trying to organize his processing plants. (pp. 204-205).

to subpoenas and not subject to intimidation), and are more likely to cooperate with law enforcement than those intricately and illegitimately involved with organized crime. It can be argued that the roles of legitimate service providers may provide essential, albeit small pieces of the jigsaw puzzle put together to make a criminal case. Our law enforcement agency interviewees addressed a number of aspects of organized criminal group utilization of legitimate services, as discussed below.

**Extent of Utilization of Services.** Several interviewees were of the opinion that there was really no way of knowing whether any particular kinds of illegal activities required more or less use of legitimate services. Some did not believe that having such information would be of assistance in developing evidence against an organized crime operation. The only exception noted was that of money laundering investigations, which involve high velocity cash transactions with financial institutions, reflected in financial records that can usually be obtained by investigators.

**Awareness.** Are providers of legitimate services generally aware of the fact that they are dealing with organized crime figures or groups? The general answer to this question, in the view of the law enforcement agency interviewees, is that it depends on the nature of the connection of organized crime to the business to which legitimate services are being provided. For example, a business controlled but not owned or operated by organized crime may appear to be completely innocent in all respects, giving a legitimate service provider no overt clue about organized crime involvement in the business. On the other hand, many business operations are widely and notoriously known to be owned and operated by organized criminal figures and any service provider "with any sense at all" would know that he is dealing directly with organized crime.<sup>69</sup>

In one jurisdiction it was strongly stated that the fact of organized crime ownership and operation is not only widely known, but is nearly impossible to ignore. Organized criminal figures and the businesses that they operate receive extremely preferential treatment both from legitimate service providers and from city government agencies.<sup>70</sup>

**Vulnerability to Law Enforcement.** Interviewees were divided on the question of whether the need for or use of legitimate services by organized criminal activities resulted in increased vulnerability to law enforcement. One view was that examination of legitimate business linkages does not play a significant role in the investigation of organized criminal activities. Such linkages do not help identify organized criminal figures (law enforcement is well-informed about their identity), it does not help identify what kinds of illegal activities organized crime is involved in (law enforcement is

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<sup>69</sup>Personal communication. For the most part, legitimate service providers know who they are working for -- thus, they go in, do their jobs without asking questions and probably turn a deliberately deaf ear to anything untoward that they may see or hear. Personal communication.

<sup>70</sup>Personal communication. As evidence of this preferential treatment by city government, one prosecutor suggested doing an analysis of the condition of the pavement in front of organized crime owned businesses, counting the number of unrepaired potholes per foot of street front. One law enforcement investigator suggested that the results of a comparison of this number with the same number for non-organized crime businesses would be predictable.



well-informed about the nature of those activities, and it really does not help generate evidence that could be used to prosecute organized crime.<sup>71</sup>

It was recognized that in theory a legitimate service provider could be valuable if he could somehow obtain access to information that was not available through an informant or a wiretap. Even under such circumstances, however, some interviewees would be reluctant to use a legitimate service provider to help develop a case in this way. This reluctance arose primarily out of fear for such a person's safety and because he or she would have to continue to live in the community with the cloud of doubt and potential suspicion that would arise should a case ever be made as a result of information he or she provided. Generally, the risks involved in using a legitimate service provider in this capacity were felt to be too great.<sup>72</sup> This would appear to be a realistic concern, but obviously less important where the service provider is a large, impersonal business enterprise such as a bank or even a smaller one that deals at arms length and had no knowledge of the character of its customer.

Contrary to the reluctance expressed by some law enforcement personnel, others felt that reliance on legitimate services providers did substantially increase the vulnerability of organized criminal groups to law enforcement efforts, especially when there was some degree of complicity in illegal activities. This vulnerability is typically exploited through use of subpoenas to obtain business records, and by granting legitimate service providers immunity in return for their testimony, and using contempt powers to compel testimony.<sup>73</sup>

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<sup>71</sup>Personal communication.

<sup>72</sup>Personal communication.

<sup>73</sup>In general, legitimate service providers are more fearful of law enforcement than organized criminal business operators, and can be induced to cooperate in an investigation and prosecution. Personal communication.

## V. BUSINESS FUNCTIONS IN ORGANIZED CRIME

### Introduction

Thus far we have surveyed the illegal and illegal activities of organized criminal groups, and the general range of services that these groups purchase or otherwise acquire in order to implement their activities. We now turn to examination of the internal operations of these groups, considering them as businesses and looking at the ways in which the component parts of these operations parallel those to be found in the operations of legitimate business. We here consider the elements supporting the business-type activities of organized criminal groups.<sup>1</sup>

To operate effectively, organized criminal groups face the same challenges as any other business groups. They must organize themselves internally to implement their marketing strategies, assure a supply of skilled and unskilled labor, train employees, produce product, and engage in other day-to-day operations.

It is important to consider these elements because they are the mechanisms that together constitute the actual operations of organized criminal groups. The elements of organized criminal group operations in a very real sense define the nature of the organizations, their depth, and the tactical steps they opt for to achieve their strategic goals. For example, in any legitimate business setting a firm would find itself hard pressed to carry out the activities that are the focus of the firm without some systematic set of personnel policies and practices. We do not here analogize an organized crime group to a large corporation, but look to parallels with small and medium size businesses that face problems of the same character as larger enterprises, but adapt their responses to their particular circumstances.<sup>2</sup> In exactly the same way, the criminal group will address the same problems in ways that are adapted to its circumstances -- smaller size, limited labor pools, maintaining the security integrity of their operations, watching costs, auditing revenue intakes and payouts, facing not only competition but also attacks from law enforcement aimed at depriving them of their businesses and liberty.

We now turn to the data on these operational elements, collected from the pleadings and other public record information that constituted our data base, and to the information

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<sup>1</sup>"Business-type activities" refer to the activities of organized criminal groups and individuals that parallel similar activities of legitimate businesses or individuals. Such activities consist of two components: (1) "activities," which refer to the general set of substantive business operations in which organized criminal groups or businesses may be engaged; and (2) "elements," which refer to the operations used to implement or carry out activities. These are discussed in greater detail in Section III, above.

<sup>2</sup>For example, in *United States v. Scarfo*, PA-69, the activities resembled those of a conglomerate, involving the usual mix of extortion, gambling, loansharking, and debt collection. The conglomerate here acted in many of the same ways that a legitimate business conglomerate acts -- each subsidiary activity was controlled by a different individual, but the subsidiaries acted in concert with one another in order to achieve broader organizational goals. It also is interesting to note that one subsidiary (gambling) used the services of another (debt collections) in order to implement its activities. In addition, the organization as a whole attempted to attain some competitive advantage or control over its competitors. Defendants, through threats and the use of violence, extorted "tribute" payments from other criminal groups engaged in illegal activities; these other groups continued to operate at the sufferance of defendants.

gathered from our interviews with enforcement agency supervisors. We consider some of the implications of this information, and examine the relationships between operational elements and the ability of organized criminal groups to implement both their legal and illegal activities. It should be noted that these elements break through the boundaries of what would be considered elements in a legitimate context -- in the organized crime context, for example, the debt collection procedure relies on the threat of violence and not on the dunning or lawyer's collection letter.

**The Data Base.** Cases in the project data base were coded for the presence of functions that parallel the broad functions to be found in legitimate business fields. It should be noted that the public record information that constituted our data base contains relatively few references to the operational elements in the activities described in indictments and complaints. The case materials themselves provided little in the way of detail about the roles that such elements played in the activities undertaken by the defendants. This is not surprising, since these elements are generally matters of proof and are therefore only sometimes described or charged in indictments or complaints. When they were described they were typically central to the explanation of the criminal activities that were the subject of the indictments.<sup>3</sup> Where they were omitted their presence was rather easily inferred, and we therefore coded for them. Detailed descriptions of operational elements also were obtained from site visit interviews.

Table 5.1 shows the frequency with which operational elements were present in cases in the data base.

Table 5.1

**ELEMENTS THAT PARALLEL LEGAL ACTIVITIES**

Elements	Frequency
Security	25
Market Regulation/Protection	22
Intelligence	17
Personnel Policies/Procedures	14
Recruitment	14
Training	7
Debt Collection Service	2
Product Transportation and Distribution	2
Credit Sales/Flooring	2
Marketing/Sales	2

It should be kept in mind that the elements in Table 5.1 were to one degree or another considered important to the prosecutors who drafted the indictments, even though not alleged. For example, it could be relevant in proving a case that specific security precautions were taken to mask the nature of the illegal activities alleged in the indictment --

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<sup>3</sup>Major RICO indictments were a particularly rich source of information about organized criminal functions that parallel legal activity because such indictments typically take great pains to present a detailed picture of criminal organizations and the activities that they undertake.

to show criminal intent. Steps taken in an effort to regulate or control a market would be important proof in a bid-rigging case. Several indictments very specifically addressed personnel issues, and training in such skills as avoiding law enforcement attention.

The number of cases in our data base in which these elements were clearly addressed is high, especially in light of the general likelihood that these aspects of criminal cases are not ordinarily set out in pleadings. In approximately 15% of the cases specific steps to maintain operational security were evidenced. In approximately 13% of the cases attempts were made to regulate or control markets for goods and services. The intelligence function preoccupied the defendants in approximately 10% of the cases. Personnel-related issues surfaced in approximately 17% of the cases and, most surprising, the training of organized crime group personnel was considered of sufficient moment to be considered in 4% of the indictments. The latter number may appear quite small, as do many of these percentages, but when one looks at the many aspects of cases that would appear significant to the drafter of pleadings in organized crime cases, this may indicate an important level of attention.

We initially sought to gather information on specific forms of organization, but it rapidly became clear that such issues were not at all likely to be specifically addressed in enforcement pleadings. For example, while it might be possible from an indictment to infer whether an organization is loosely or tightly controlled from the top, specific information bearing on this point would be highly unlikely. As our case data came in we watched for indications that such information would be present in the pleadings, and we were prepared to recode and enter this information. However, we did not see it in the data that we collected, and therefore looked to the site visits with enforcement supervisors to fill this gap.

### Organizational Structures

The way in which a criminal group is structured may play a role in determining the nature of the illegal activities in which it is involved (e.g., a group that is only loosely structured may not be able to successfully carry out activities that require a high degree of control over many different people, or coordination of the activities of different people),<sup>4</sup> and surely plays an important role in the way that illegal activities are in fact carried out (e.g., if gambling operations require centralized control in order to expand beyond a small

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<sup>4</sup>A general issue that is of interest in all of the organized criminal operations that we looked at is that of control. With any multi-faceted organization (or a business conglomerate) one of the major management issues is how to control the subsidiaries and plan overall operations on the basis of some systematic plan, or with some goal in mind. We therefore asked, both in our examination of case data and in site interviews, whenever cases involved large or complex criminal operations:

1. How did the defendants here know what was going on in each of the subsidiary branches of the operation?
2. How, if at all, did defendants keep track of the money that was generated by the operation?
3. Legitimate business organizations generally have a rigorous system of controls, accounting and reporting to monitor such information. Is there anything comparable to such a system that is used by organized criminal groups?

geographical territory, a diffusely organized criminal group will not be capable of extending its control over such operations beyond its immediate span of control).

It was clear from site visit interviews that organized criminal groups generally were considered to have centralized organizational structures. However, that description does not sufficiently describe the real differences in the way that such groups are organized. In terms of their centralized structures, organized criminal groups appear to fall into one of three major categories that can be called:

1. flat centralization,
2. pyramidal centralization, and
3. diffuse centralization.

In turn, each organizational approach seems to influence the ways in which criminal groups employ functional elements.

**Flat Centralization.** The structure of organized crime in Chicago can be characterized as flat centralization. One "family" controls organized crime in Chicago but members and associates are tightly organized into what are called "street crews" or simply "crews."<sup>5</sup> A crew is probably more accurately characterized as a "family" as that term is used in other cities, such as New York. A member or associate owes first allegiance to a crew, and only then to the family. The street crews are the operational or stand-alone entrepreneurial units of organized crime in Chicago.<sup>6</sup>

This organization has implications for the ways in which activities are carried out by organized crime. First, although there is some differentiation among the crews in terms of their main illegal activities,<sup>7</sup> crews are free to pursue whatever illegal activities they choose;<sup>8</sup> they need not seek approval from a higher level organized crime figure in order to undertake a particular activity. Although still hierarchical, the focus of authority and responsibility is still on lower level units of the organization, which are relatively free to pick and choose among the activities to which they devote themselves. Second, the crew operations are not bound by assigned territories -- territorial prerogatives are not assigned and are not enforced. While most crews have some loose identification with various parts

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<sup>5</sup>Personal communication.

<sup>6</sup>In addition to organized crime crews, there are several other recognizable groups that operate in the area -- most of these are independent ethnic gangs, many of which are not subject to the street tax imposed by organized crime. Much of the traditional criminal activity is actually conducted by these independent criminal syndicates who, though not directly controlled by organized crime, are subject to the organized crime street tax.

It is not clear how all of these elements interact with one another, and what the operational and geographic relationships between them are. Some groups seem to operate within some vaguely defined geographic limits; others seem to restrict their activities to one narrow type of illegal activity. Personal communication.

<sup>7</sup>For example, one crew is mainly involved in hijacking and stolen property, while another is mainly involved in suburban gambling operations, loansharking, junk yards and chop shops.

<sup>8</sup>Thus, one named crew is involved "in whatever they can get their hands into." Personal communication.

of the city and county, it is not unusual to see a suburban crew involved in an illegal activity in the center of the city.<sup>9</sup> The only restriction on crew activity is that it not touch upon the activities of another crew.<sup>10</sup>

**Pyramidal Centralization.** A second model of organizational structure is more characteristic of the traditional notions of a hierarchical organization, with clear lines of authority, responsibility and reporting up and down the layers of the organization. Organized crime in Kansas City is the best example of such organization. In nearly all cases permission must be obtained from the upper levels of the organization prior to undertaking any illegal activity, but direct supervision of such activity is left in the hands of those closer to the implementation of the criminal tasks. Thus, permission must be obtained to conduct an activity, but no clearance is required for how it is to be conducted.

"Money, a cut of the take, clearly flows up the organization, but specific orders and directions do not flow down."<sup>11</sup> Organized crime figures in the upper levels of the organization generally consult with lower level members and associates on such topics as (1) general management issues, (2) dispute resolution, and (3) interpretation of broad organizational policy.

This organizational structure results in greater control over the conduct of criminal activities at a higher level in the organization. Territories and activities are more strictly monitored and controlled than in jurisdictions that follow other organizational models.<sup>12</sup>

**Diffuse Centralization.** A third model of organizational structure is one that can be characterized as diffused centralization. In this model, organized criminal activities can be both centralized or decentralized, depending upon the level of the organization and the type of activity. Organized crime in Cleveland is an example of such a structure.<sup>13</sup> Several aspects of organized crime in Cleveland should be taken into account. First, there is not just one monolithic organized criminal group, there really are several including traditional organized crime, the Irish Mob, the Black numbers operators and the new narcotics groups. Second, much of the older organized criminal activity involved straightforward gambling operations, and even this was not characterized as being a "big time" operation. Finally, because of the success of recent prosecutions and internal turmoil in organized crime in Cleveland, there is a temporary dearth of information about how activities are currently organized or controlled.

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<sup>9</sup>Personal communication.

<sup>10</sup>If a new business comes into existence and presents a target of opportunity for illegal activity (e.g., imposition of the street tax), that business "belongs" to the first crew that identifies it and makes contact with it, regardless of the location of the business. Personal communication.

<sup>11</sup>Personal communication.

<sup>12</sup>Personal communication.

<sup>13</sup>Personal communication.

As a general rule there is no question about where power within organized crime in Cleveland resides -- it is clearly centralized in the leader of the organized crime group. However, a problem for organized crime in Cleveland has been that power was not often exercised to establish or maintain control over the lower level activities in the organization. Thus, criminal activities at the lower levels of the organization are very decentralized. For example, some bookmakers are allowed to operate without ever paying tribute to higher levels of organized crime (these are primarily gambling operators who came on the scene in later years after the exercise of power by organized crime had begun to decline), while those whose operations were established early in the organization's history continue to pay tribute.<sup>14</sup>

There are a number of law enforcement theories about the structure of organized criminal groups. For example, one theory implicitly endorsed precepts that were strikingly similar to old concepts of social Darwinism. According to this theory, centralization and hierarchical organization are the dominant characteristics of organized crime because such attributes contribute to organizational survival. In response to challenges in the organized crime environment (both internal challenges and those presented by law enforcement), those organizations that were centralized tended to develop the skills (such as political corruption) necessary to survive.<sup>15</sup>

Centralization tends to work very well in periods of growth and organizational stability, but may not ensure organizational survival during times of turmoil and organizational contraction.<sup>16</sup>

The key to these models of organizational structure in organized crime really has to do with the ways in which authority from the top of the organization is delegated to lower levels. Regardless of the model, it is important for the head of an organization to delegate decision making authority, both because he cannot maintain control over all aspects of illegal activities throughout the organization, and because he must try to insulate himself from the direct consequences of failure at lower levels.<sup>17</sup> Success and survival in organized crime is dependent on walking the fine line between maintaining control of lower level activities and avoiding responsibility for them.<sup>18</sup>

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<sup>14</sup>Personal communication.

<sup>15</sup>The point was made that "organized crime can't be run by a committee." Personal communication.

<sup>16</sup>For example in Philadelphia centralization worked well when ". . . Bruno was in control and concentrating on steady gambling revenues." But the younger organized criminal figures were restive. "New people wanted the fast buck, and this meant narcotics. Under these circumstances, centralization could not protect Bruno from assassination by Testa's people, nor could it protect Testa from being gunned down by Scarfo's people." Personal communication.

<sup>17</sup>"The hierarchical nature of the organization (in Kansas City) seems to have evolved from a number of traditions and experiences. It is a way to retain some loose control over the activities of underlings and at the same time imposing some protective layers between the conduct of criminal activities and those occupying the highest levels of the criminal organization." Personal communication.

<sup>18</sup>A cynic might argue that this is the same formula for success in a legitimate business.

The degree of delegation of authority is in some direct proportion to the sensitivity or danger of the activity to the organization and the potential reward that can accrue for success. Thus, in gambling operations the danger to the organization is minimal while the income stream is substantial, so there is a greater degree of freedom of operation at lower levels of criminal organizations. In narcotics, the earning potential is high but so is the risk, so there tends to be greater and more direct control of such activities from the top of the organization. Finally, in regard to murder (within the organization or across organizational lines) the risks are extraordinary (internally and from law enforcement) so authorization and control must come from the very top of a criminal organization.<sup>19</sup>

### **Relationship Between Organizational Structure and Activities**

The discussion above reinforces the law enforcement perception that the nature of the structure of an organized criminal group has some affect on the way in which the organization operates. The more direct question is whether there is a relationship between the organizational structure of a criminal group and the kinds of activities in which the group predominantly engages.

Law enforcement personnel were generally of the opinion that there was no such relationship. In Kansas City, where gambling is the predominant illegal organized crime activity, its prevalence is simply a matter of historical development -- it continues to predominate because it is very easy money and entails little risk for the organization.<sup>20</sup> Similar responses came from other jurisdictions.

In some jurisdictions, the position was that there was really no way of telling whether there was any relationship between the structure of the organized criminal group and the activities in which it engaged. The main reason for this view was that organized crime was involved in virtually every arena of activity, both illegal and legal.<sup>21</sup> From this perspective, organized criminal groups are structured the way they are because it seems to be the most efficient way to control members and associates and the myriad activities in which they are engaged. It was felt that there might be some activities, like hijacking, that required a smaller more tightly controlled group than is typically seen in organized crime.<sup>22</sup>

**Do Organizational Structures Facilitate Illegal Activities?** If there is no apparent direct relationship between the structure of an organized crime group and the activities that it engages in, the next question is whether organizational structure facilitates or encourages particular illegal activities. The answer to this is not clear cut, but seems to be that a centralized organizational structure does in some way facilitate involvement in particular illegal activities. For a simple example, some activities such as organized theft

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<sup>19</sup>Personal communication.

<sup>20</sup>Personal communication.

<sup>21</sup>Personal communication.

<sup>22</sup>Thus, if a Chicago street crew is involved in hijacking, the actual activity seems to be carried out by a subgroup of individuals within the crew who primarily focus on that activity. Personal communication.



and hijacking are clearly facilitated by a higher degree of centralized organization and decision making. Without such centralization, the coordination of the number of individuals and diverse activities necessary to carry out a hijacking simply would not be possible.<sup>23</sup>

In another sense, organizational structure facilitates the division of labor between the main criminal activities in which the organized criminal group engages. For example, as a general rule those involved directly in loansharking do not get involved in hijacking.<sup>24</sup> And finally, organizational structure may also facilitate the loose allocation of territories that exists in some jurisdictions.<sup>25</sup>

**Organizational Structure and Vulnerability to Law Enforcement.** The last issue with respect to organizational structure is whether the nature of the organizational structure of a criminal group creates special vulnerabilities that can be exploited by law enforcement. There are indications that such vulnerabilities do exist, but the particular structure should determine the law enforcement approach that is adopted. For example, we noted above that organized crime in Chicago appears to have characteristics of flat centralization -- there is a degree of centralization but a large degree of responsibility is diffused throughout the lower levels of the organization. This loose organizational structure makes it less difficult to detect and prosecute individual criminal activity at the street level, but more difficult to trace lines of responsibility and authority higher up the organizational ladder. As a result, this type of structure is more amenable to the large-scale RICO prosecution that enables law enforcement to reach into the normally insulated upper levels of the organization.<sup>26</sup>

On the other hand, the fact that authority resides in the lower levels of a criminal organization does lend itself to exploitation by law enforcement in one very important way. If an informant can be planted in the operational group, or if a member of that group can be "turned" by law enforcement, a great deal of information about the activities of the operational group can be obtained because all decisions are openly discussed within that group. However, as noted previously, the nature of the relationship between operational groups and the upper levels of a criminal organization makes it exceedingly difficult to get

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<sup>23</sup>It is interesting to note in this regard that in Kansas City there are often ad hoc alliances that form between factions within the criminal community for purposes of engaging in organized theft or hijacking. For example, for purposes of a particular hijacking organized criminal figures often align themselves with non-organized criminal groups and individuals under an arrangement to divide responsibilities and proceeds. Personal communication.

<sup>24</sup>Personal communication. However, this division may have more to do with personal expertise and preference than it does organizational structure.

<sup>25</sup>Personal communication.

<sup>26</sup>Vulnerability per se, is not the problem for law enforcement in Chicago. The existence of organized crime is well known, as are the key actors. The difficulty is in obtaining the evidence connecting criminal activities to those who ultimately are responsible for the organization. Personal communication.

good information about the relationships between the two levels or about the upper levels by themselves.<sup>27</sup>

The situation in Cleveland, where the structure of the organized crime group was characterized as diffuse centralization, was not so straightforward. It was felt that centralization itself had no apparent effect on the vulnerability of organized crime to law enforcement. Rather, it was the lack of centralization of the group itself that ultimately contributed to its downfall. The fact that authority was not centralized meant that the organization was not able to control itself or the individuals within the organization, and as a result criminal activity became highly competitive between a number of factions within organized crime. It was this competition more than anything else that provided an opportunity for law enforcement.<sup>28</sup>

### Objectives of Business Organizations

Organized criminal groups, in the same way as any other business organization, operate to achieve a mix of objectives. These objectives, in turn, may determine what activities these groups engage in, and their implementing elements. In and of themselves, they are neither "activities" nor "elements" as above defined. However, consideration of these objectives may contribute to understanding of why and how organized criminal groups embark on particular activities and pursue them through the use of particular operational elements.

The Data Base. The cases in the project data base were examined to identify and inventory the objectives of organized criminal groups, as determined from the language of the pleadings. Table 5.2 shows this inventory, and the frequency with which various objectives were identified in the data base.

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<sup>27</sup>Personal communication.

<sup>28</sup>The operational implication of this structure was that organized crime lacked aggressive, effective leadership -- it could be said that it suffered from poor management. The main reason for this seems to be that the old guard organized crime figures failed to aggressively exercise their authority in preserving their criminal domains, and failed to prepare for an orderly transfer of power from older to younger leaders. In addition, traditional organized crime permitted competitors to openly operate within the city and surrounding areas and did not extract tribute from these competitors or control their operations. As a result of this failure to exercise authority, leaders of these other criminal groups "got out of control," there was then no way to stop or control their activities in narcotics, and no way to "police" the ways in which they went about doing business. Personal communication.

Table 5.2

FREQUENCY OF OBJECTIVES OF BUSINESS ORGANIZATION

Objective	Frequency
Provide operational structure and procedures	132
Concealing non-legitimate business from law enforcement	115
Defense against law enforcement	37
Perpetuate the organization	27
Enforce discipline	22
Arbitrate disputes	18
Set rules	17
Allocation of markets (excluding bid-rigging)	15
Punish recklessness	15
Investment in legitimate business	14
Provide jobs for retainers	11
Cooperate with other organized criminal groups	10
Offer and withhold jobs	7
Exercise influence/control over union	5
Eliminate competition	4
Exercise influence/control over an industry	3

In coding other variables from cases in the data base, coding entries depended on variables specifically addressed in the pleadings, or strongly and very directly inferred. This was not feasible in regard to the implementing objectives of criminal groups. There was much language, of course, about the objectives of particular activities (criminal intent), but the topic of organizational objectives was simply not one that would ordinarily find a place in an indictment or complaint.<sup>29</sup> Thus, a different strategy deliberately was taken that relied heavily on what could be more generally inferred from the information contained in the pleading. In coding for this variable we considered what, beyond the profit motive that drove the criminal activity, were the general implementing objectives of the organization. In some instances the answers were very clear from the pleadings, for example when the pleadings narrated how operations were organized to arbitrate disputes, or to deter or

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<sup>29</sup>*United States v. Brown*, DC-53, is not typical of most of the indictments in the data base, but from it we learned that this particular organized criminal group had among its objectives to:

1. engage in organized instruction and education for members in how to go about committing various criminal acts, and in how to behave if they were arrested,
2. regularly and systematically transfer group members to various geographical locations to further the overall objectives of the group, and
3. protect (hide) members of the group from law enforcement, and sometimes key members of the group were protected by having other group members claim and accept responsibility for crimes.

punish recklessness, or to eliminate competition. In others, the pleadings gave only a hint.<sup>30</sup>

Since indictments and complaints generally describe the steps taken by defendants to implement their activities, it is not at all surprising that the two most frequent objectives, determined from the pleadings, by an overwhelming margin, were (1) to plan for how criminal organizations were going to operate in order to facilitate the implementation of their schemes and (2) to conceal what they were doing.

These indictments went beyond merely alleging that something was done. In order to demonstrate the full extent of criminal operations, particularly in the RICO indictments, it was necessary to consider how these organizations operated as organizations in interactions with their markets, their owners, their employees, their adversaries (law enforcement), and how they were used to accomplish long term objectives such as perpetuation of the organizations and the insulation and investment of profits in a manner that would be beyond the reach of the law.

It should be noted that the objectives listed in Table 5.2 derived from our examination of the indictments. We started with a shorter list, and then added to it as additional instances of similar character were derived from the pleadings. The final set of organizational objectives that we developed can be broken down into three general classes, which are not mutually exclusive:

1. Objectives that relate to what the organizations hoped to accomplish, or the benefits/profits to be gained:
  - (a) Allocation of markets
  - (b) Eliminate competition
  - (c) Exercise influence/control over unions
  - (d) Exercise influence/control over an industry
  - (e) Cooperate with other criminal groups
2. Objectives that relate to defense against law enforcement that could threaten the very existence of the groups:
  - (a) Concealing non-legitimate business from law enforcement
  - (b) Defense against law enforcement
3. Objectives that relate to the management of business operations:
  - (a) Provide operational structure and procedures

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<sup>30</sup>As with other variables in the data base, a single case might have been coded for a number of different objectives.

- (b) Cooperate with other criminal groups
- (c) Enforce discipline
- (d) Punish recklessness
- (e) Set rules
- (f) Arbitrate disputes
- (g) Offer and withhold jobs

In light of the extent to which these three sets of umbrella objectives appeared in large segments of our data base, probably in response to the challenges of individual case prosecutions, it is reasonable to suggest that organized criminal group operations be customarily subjected to examination through these lenses, whether by enforcement agencies seeking to make cases or otherwise contain criminal group activities or by researchers seeking to add to our understanding of organized criminal groups.

**Site Visit Interviews.** In discussing the objectives of the business organization of organized criminal groups, we asked law enforcement personnel to differentiate between two major categories of objectives. The first were general objectives<sup>31</sup> that reflected on broad themes and purposes that would motivate an organized criminal group. The second, implementing objectives,<sup>32</sup> were lower order purposes that were necessary to accomplish or carry out general objectives.

Interviewees felt that there were only two general objectives that were of importance to organized criminal groups. First, the over-riding objective of organized crime is to perpetuate itself and everything else that it does flows from this objective.<sup>33</sup> Second only to self-perpetuation is the objective of "making as much money as quickly as possible, with as little interference as possible, with as little effort as possible, and with as little risk as possible."<sup>34</sup> Other elements, in the opinion of our interviewees, are objectives only to the extent that they contribute to organizational perpetuation and enrichment.

The differences between general and implementing objectives may be useful conceptually, but from law enforcements' perspectives the differences are neither clear nor particularly useful. A brief discussion of one case, the murder of Danny Greene in

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<sup>31</sup>These were to: (1) perpetuate the organization, (2) cooperate with other organized criminal groups, (3) exercise influence or control over a labor union, and (4) exercise influence or control over an industry or industry segment.

<sup>32</sup>Implementing objectives were to: (1) arbitrate disputes, (2) enforce discipline, (3) offer and withhold jobs, (4) defend against law enforcement, (5) provide jobs for retainers, (6) punish recklessness, (7) set rules, (8) invest in legitimate business, (9) allocate markets (10) provide operational structure and procedures, and (11) eliminate competition.

<sup>33</sup>Personal communication.

<sup>34</sup>Personal communication.

Cleveland, illustrates this difficulty. It is not important to lay out all of the details of the case, only to note that Greene became a visible and vocal leader of a faction within organized crime in Cleveland. Numerous unsuccessful attempts were made on his life before he finally was blown to bits in a parking lot outside of his dentist's office. Although the case involved the elimination of a rival, the activity itself was in furtherance of a number of different objectives. For example:

1. it was clearly intended to perpetuate the organization (general objective), but the murder came about as a result of two different visions of what the organization should be doing;
2. prior to the murder, the organization had tried to arbitrate the dispute with Greene, going to great lengths to accommodate Greene's flamboyant personality and his leadership style (implementing objective);<sup>35</sup>
3. the murder was a clear attempt to enforce discipline (implementing objective) and to punish the recklessness of Greene (implementing objective), and was clearly a signal to other criminals and organized criminal group members and associates about the rules of the group (implementing objective); and
4. finally, the murder was also clearly in furtherance of the objective of eliminating competition (implementing objective).

Interviewees suggested two different approaches to thinking about the general and implementing objectives of organized criminal groups. First, the objectives of organized criminal groups could be looked at in terms of "control." An over-riding objective of such groups is control, to some extent an even more important objective than organizational or personal enrichment.<sup>36</sup> From this perspective it is important for organized crime figures to feel and actually be in control of things -- it is important to control other criminals and to be

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<sup>35</sup>Dispute resolution is a major subject of concern for organized criminal groups. In another context of organized crime it was noted that:

Disputes between crime families can lead to gang warfare, but the more frequent solution is to go to arbitration through a "sitdown" or a commission set up by the families for that purpose. A crime family moving into a new territory frequently will seek permission to operate from the crime family or families dominant in the area, even though the operation is not of the same nature as those in which the resident crime families are involved.

Organized Crime's Involvement in the Waste Hauling Industry. A Report from Chairman Maurice D. Hinchey to the New York State Assembly Environmental Conservation Committee. July 24, 1986, p. 12.

<sup>36</sup>For example, in Cleveland organized crime had infiltrated some unions and controlled many of their activities, but law enforcement was not sure of the extent to which organized crime had actually profited from their position. Personal communication.

in control of their activities, and to ensure that those people have respect for the authority that is exerted over them.<sup>37</sup>

To a large extent this perspective on the importance of control is accurate with regard to older members and associates of traditional organized criminal groups, but less accurate as a description of the attitudes of newer members and associates of organized crime or members of other non-traditional organized criminal groups. For example, in Cleveland the "family" placed a high value on power, control and influence. New family members and associates and other criminal groups clearly gave money and profit primacy over any other value. These differences were reflected in the nature of the activities that the groups choose to engage in, the ways in which illegal activities were carried out, and the general purposes of the criminal organization. With the "new family" and other organized criminal groups in Cleveland, profit was the over-riding organizational motive, and an organization (or partnership among criminals) was useful only to the extent that it enabled members to make money.<sup>38</sup> This would seem consistent with often expressed views of the conflicting approaches of Bruno in Philadelphia, and the "young Turks" who took over after his assassination.<sup>39</sup>

The objectives of organized crime can be seen from the perspective of "power" as opposed to control. Thus, a key to understanding organized criminal group behavior is that such groups aim to:

1. maximize their power through infiltration of the political process (which also creates mechanisms to protect the organization from law enforcement); and
2. maximize their power through infiltration and takeover of private sector entities, principally labor unions.

The establishment of such power centers is a principal objective of organized crime.<sup>40</sup> It has been strongly argued by Charles H. Rogovin and others that the corruption of the

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<sup>37</sup>This same conception came up several times during the project interviews. It was clear that there is a hierarchy of objectives that can be pursued. In addition to making money, many individuals within organized crime aspire to membership or association first to make money, but then to achieve some degree of respect. Organized crime provides such individuals with a sense of belonging and identity that they would otherwise not have. Such individuals make very good organized criminal figures because they become "company" men, going out of their way to further the broader objectives of the criminal group. From a law enforcement perspectives, they are difficult to interact with because they are usually the one who remain stone silent in their loyalty to the organization. Personal communication. The parallel to organizational allegiance in legitimate businesses is obvious.

<sup>38</sup>Personal communication. This conflict played a large role in the break down of organized crime in Cleveland. The "new family" had extraordinary power that was exercised arbitrarily and frequently summarily against members or associates for some actual or perceived misstep in the pursuit of profit. The situation was characterized as "a complete breakdown in the patterns of traditional socialization in La Cosa Nostra." Personal communication.

<sup>39</sup>Personal communication.

<sup>40</sup>Personal communication.

public sector is a defining characteristic of organized crime, and that without such linkages organized criminal groups could not operate.<sup>41</sup>

The key to implementing the power of organized criminal groups is leverage -- finding a place to apply power that will enhance the impact of organized criminal activity by orders of magnitude. Leverage in this sense is the use of power in one activity that can then be used to control other activities. The power so positioned can be called upon for many different purposes -- to pursue many different implementing objectives, for example:<sup>42</sup>

1. for protection against law enforcement,
2. for action against potential and actual competitors,
3. for extortion and kickbacks, and
4. to steer contracts.

### Organizational Assets of Organized Criminal Groups

The assets of organized criminal groups are of two kinds. The first are assets in the accounting sense -- physical, tangible things of value, such as real and personal property. The second are assets that include the intangible characteristics, attributes, skills and expertise of individuals and criminal organizations that are useful in the conduct both of illegal and legal activities. Both kinds of assets are important for the conduct of business type activities by organized criminal groups.

The Data Base. Indictments and complaints in the data base were examined for indications of the presence both of intangible and tangible organized crime assets. As was the case with other more subjective variables that we were interested in, the material in the data base typically did not directly address the issue of criminal assets. Rather, the presence of or reliance upon a particular asset had to be inferred from the activities that were described in an indictment or complaint. Thus, an indictment might describe a business type activity involving the use of a legitimate business as a cover for a gambling operation, including bribery of a law enforcement officer to overlook the gambling. This activity would be coded as involving the asset "capacity to corrupt private operations," and "capacity to corrupt agencies of government." The general rule for coding criminal assets was to look for the underlying asset that was necessary for the perpetration of both illegal and legal activities by organized criminal groups. Under this procedure, a single case might result in coding the presence of any number of different assets.

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<sup>41</sup> Oral comments, Symposium on Major Issues in Organized Crime Control (Washington, D.C., September 25-26, 1986) and at Advisory Panel Meeting, this project (Washington, D.C. May 11, 1988).

<sup>42</sup> Personal communication.



Table 5.3 shows the frequency with which intangible criminal assets were present in the cases in the project data base.

**Table 5.3**  
**INTANGIBLE CRIMINAL ASSETS**

Asset	Frequency
Operational Experience	137
Connections Within Criminal Network	79
Access to Legitimate Sources/Channels of Money	65
Ability to Use Power/Authority of a Legitimate Organization	61
Capacity to Corrupt Private Operations	59
Reputation for Violence	52
Capacity to Corrupt Agencies of Government	18

Moore has categorized intangible assets as:<sup>43</sup>

1. A capacity (and reputation) for irresistible violence.<sup>44</sup>
2. The capacity and capability to corrupt or suborn enforcement personnel.
3. Control over capital.

Moore's three "assets" are comprehended within four of the asset categories in Table 5.3.

The data base suggests a number of points with respect to criminal assets. First, we do not find the most frequently cited asset, operational experience, particularly helpful. Its frequency may well be an artifact of the nature of organized crime cases -- which are more likely to address activities pursued over a considerable period of time, and thus indicate the presence of operational experience. Operational experience can well be taken as a given.

Second, the remainder of the criminal assets in the data base, except for one (capacity to corrupt agencies of government) were coded with approximately the same degree of frequency, and a significant degree of frequency --- present in from 31% to 48% of all the coded cases. In light of the fact that much is unspoken or not too easily read between the lines within the four corners of criminal and civil pleadings, this suggests that

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<sup>43</sup>Moore, Mark H., Symposium Proceedings, Major Issues in Organized Crime Control (1987). National Institute of Justice. U.S. Government Printing Office, Washington, D.C.

<sup>44</sup>Citing Peter Reuter, Disorganized Crime. Cambridge, Mass.: MIT Press (1983).

such assets are very likely to be present in most organized criminal groups -- lending some empirical support to Moore's views.<sup>45</sup>

This leaves us with the least frequent of the criminal assets emerging from the data base -- capacity to corrupt agencies of government, which emerged in only 11% of the coded cases. In interpreting these numbers it should be recognized once again that an indictment or complaint is only very rarely a comprehensive review of everything that is known or suspected about the criminal behavior being targeted. Corruption of government, or exercise of the capacity to corrupt, may well be suspected or even supported by some evidence, yet not strongly enough to warrant inclusion in criminal or civil pleadings. Notwithstanding this low level of frequency we suggest, in light of the observations of the experienced organized crime enforcement supervisors we interviewed in the course of our site visits, and the views of Moore<sup>46</sup> and Rogovin,<sup>47</sup> that this asset is indeed an important one.

**Site Visit Interviews.** The criminal assets of organized criminal groups was also discussed in some depth with prosecutors and investigators during site visit interviews. These discussions focused on three main topics. First, we asked interviewees to comment on the inventory of criminal assets shown in Table 5.3, and to suggest additions to that list. Second, we asked interviewees to discuss how these assets were used by organized criminal groups to further both illegal and legal business-type activities, including the relationship (if any) between particular criminal assets and particular business-type activities. Finally, interviewees were asked to describe how criminal assets create vulnerabilities for organized criminal groups and how such vulnerabilities have been exploited by law enforcement. The material in the following subsections describes the discussions of experienced organized crime investigators and prosecutors with respect to criminal assets.

**Operational Experience.** One interesting contrast was immediately apparent between the information obtained from the data base and our discussions with interviewees -- the operational experience of organized criminal groups, which was the most frequent criminal asset reflected in the data base, was not seen as a particularly important asset by prosecutors and investigators. With one exception,<sup>48</sup> such experience was not regarded as an important factor in the ability of organized criminal groups to engage in business-type activities.

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<sup>45</sup>Moore, Mark H., Symposium Proceedings, Major Issues in Organized Crime Control (1987). National Institute of Justice. U.S. Government Printing Office, Washington, D.C.

<sup>46</sup>Moore, Mark H., Symposium Proceedings, Major Issues in Organized Crime Control (1987). National Institute of Justice. U.S. Government Printing Office, Washington, D.C.

<sup>47</sup>Charles H. Rogovin. Oral comments, Symposium on Major Issues in Organized Crime Control (Washington, D.C., September 25-26, 1986) and at Advisory Panel Meeting, this project (Washington, D.C. May 11, 1988).

<sup>48</sup>This exception involved gambling operations, where it was felt that specific operational experience was essential to an effective operation. To facilitate establishment of organized criminal gambling operations, there are recognized specialists in different forms of gambling, such as pitmen for dice games and dealers for card games. "You cannot just walk in off the street and set up an illegal card room, there is a fair amount of skill, expertise and experience that goes along with it." Personal communication.

The position that operational experience is not a valuable asset is difficult to reconcile with what is known about the nature of organized criminal activities. While it is true that it may not take a great deal of operational experience to extort a weekly protection payment from a liquor store owner, this kind of illegal activity represents only one of numerous illegal activities that organized crime is involved in. Other activities are much more sophisticated and call for a relatively high level of skill and technical understanding. Corrupting a union and using the power and authority of that union to monopolize economic activity in a market segment requires a high level of operational experience -- not obtained overnight. Even if control can be obtained by brute force and the threat of violence, which requires little expertise, the exercise of that power involves threading ones' way through a maze of employer relationships, the complexities involved in milking pension and welfare funds, establish business ventures to exploit union labor for the benefit of the leadership, and government regulations. And control of an international union, with its intricate ballet of elections and conventions, and far flung interactions with other baronies, is hardly a field for novices.

**Connections Within the Criminal Network.** Several interviewees felt that the single most important asset of organized crime was its connections within a larger criminal network that includes both other organized criminal groups and non-organized crime criminal syndicates.<sup>49</sup> To a large extent the concept of these connections within the criminal network goes hand-in-hand with the notion of operational experience<sup>50</sup> -- the connections "grease the wheels" of the criminal machine. For example, while virtually anyone can hijack a truck, only a well-connected criminal can successfully fence the material that is in the truck. Similarly, while nearly anyone can start a gambling operation, only a well-connected criminal can maintain it with some sense of security vis a vis other criminals (and often law enforcement), with access to the support services necessary for its operation (e.g., bet takers, collectors, handlers, carriers etc.), and with some access to a loansharking operation that will help the gambling operation flourish.

**Access to Legitimate Sources/Channels of Money.** It is important to have access to capital to fund proposed criminal operations, which may be quite costly.<sup>51</sup> It is a simple fact that the operation and maintenance of an organized criminal group requires a relatively steady flow of large sums of money -- necessary to finance everyday operational expenses and to provide the capital for special purpose illegal activities. The situation of an organized criminal group in this respect is identical to that of any legitimate business -- without access to operating capital, business activities, whether illegal or legal, quickly grinds to a halt.

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<sup>49</sup>Personal communication.

<sup>50</sup>Connections within the criminal network implies some access to individuals with operational experience in a particular criminal activity, i.e., arsonists, loansharks, gambling specialists.

<sup>51</sup>Personal communication. See Also, Moore, Mark H., Symposium Proceedings, Major Issues in Organized Crime Control (1987). National Institute of Justice. U.S. Government Printing Office, Washington, D.C.

**Ability to Use Power/Authority of a Legitimate Organization.** For all intents and purposes, the presence of this asset refers to organized crime's ability to infiltrate and control labor unions.<sup>52</sup> However, regardless of the context, this asset can be used to obtain money, goods and/or services from the organization itself, or to use the organization to exert pressure on other businesses or organizations for the same purpose.

**Capacity to Corrupt Private Operations.** From both the data base and the law enforcement agency site interviews there was much attention given to the capacity to corrupt private operations. This asset appeared in approximately 36% of the cases. Corruption of private business operations was seen in cases as diverse as loansharks influencing victims to burn their business establishments for the insurance, and inducements and pressures on competitors to engage in bid-rigging on public and private contracts. Such corruption capabilities of organized crime were part of the site interview discussions; there was general agreement with its importance, and interviewees assumed that there was already widespread understanding of the issue.

**Reputation for Violence.** There is an interesting inconsistency between the data base and the site visit interviews in terms of the degree of importance attached to organized crime's reputation for violence as a criminal asset. Reputation for violence was one of the two intangible criminal assets least likely to be present in the indictments and complaints in the project data base. There was only rarely any indication from the facts presented in the indictments or complaints that the threat or use of violence played any role in the activity that was the focus of law enforcement. However, the absence of any indication in criminal pleadings of the threat or use of violence does not necessarily mean that this asset played no role in such activity. It may only mean that the capacity of organized crime for violence is so pervasive that its victims need not be reminded of it in any way that would show up in an indictment or complaint. On the other hand, many of the activities that were present in cases in the data base were not those in which one would expect to find the threat or use of violence. The data do not lend themselves to a resolution of this question, but interviewees were of the distinct impression that the capacity for violence was the sine qua non of all organized crime.

Many of the prosecutors and investigators who participated in site visit interviews felt that the single most important criminal asset possessed by organized crime was the willingness to threaten the use of violence, and the capability to actually follow through on those threats.<sup>53</sup> In this regard, reputation for violence is an asset that is used to pursue other broader objectives (such as power, or control).

Any discussion of violence by organized criminal groups must take care to define what is meant by violence and to categorize the different forms of violence in terms of the proportion of times that it might be used. For the most part, the actual violence employed by organized crime is relatively low level, such as damage to property or the person. Low level violence of this kind is seen across the spectrum of activities in which organized crime is involved, but is particularly prevalent in the collection procedures that accompany a

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<sup>52</sup>This subject is covered in detail elsewhere in this report and will not be repeated here.

<sup>53</sup>Personal communication.

loansharking operation. In the normal course of events, it is seldom necessary to go beyond such low level threats or use of violence.<sup>54</sup> Higher levels of violence, including murder, are extremely rare events (although they are much more frequent in drug trafficking circles), and are undertaken by organized crime only as a matter of last resort.<sup>55</sup>

Threats of violence are actually much more frequently invoked, and usually involve some degree of hyperbole such as a threat to "tear your arms off." However, such phrases are not to be taken literally -- failure to heed such a warning is more likely to result in someone getting hit in the face with a fist, or having his windshield smashed.

As an asset of an organized criminal group, a reputation for violence goes directly to the credibility of the organization, to its ability to control the behavior of its members, associates and of others with whom it is doing business, or with those it is victimizing. One clear message that came through from prosecutors and investigators is that organized criminal groups' reputation for violence (and for invincibility) has been significantly eroded in recent years -- except for drug trafficking groups. Two reasons are given for this: (1) the unwillingness of those now in control of organized crime to actually resort to violence on a broad scale basis has declined, thus the threat of violence has lost some of its potency, and (2) the willingness of those in other organized criminal groups, primarily the ethnic drug trafficking groups, to engage in the most violent conduct among themselves and against outsiders has overshadowed whatever reputation for violence once resided in traditional organized crime.

**Capacity to Corrupt Agencies of Government.** There was disagreement about the extent to which the capacity of organized crime to corrupt agencies of government is a significant criminal asset. On the one hand, the position was taken that the capacity of organized crime to corrupt agencies of government is vastly overblown. In particular this capacity is said to be overblown in comparison to government corruption from within and without (e.g., contract fraud), and in comparison to the corruption of individual politicians. This position is that organized crime simply does not have the capacity to systematically corrupt government officials or agencies and make them pawns of organized crime.<sup>56</sup>

On the other hand, other prosecutors and investigators were equally convinced that the capacity to corrupt agencies of government is the most important element in the ability of organized crime to exercise power.<sup>57</sup> Without public corruption (perhaps only in the form of police tolerance), organized crime could not exist because it would be picked apart by law enforcement.

From this perspective, the exercise of power by organized criminal groups and the capacity to corrupt agencies of government are part and parcel of the same set of functions.

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<sup>54</sup>Personal communication.

<sup>55</sup>The murder of Danny Greene in Cleveland is the best example of the lengths to which organized crime will go to accommodate itself to dissent in an effort to avoid taking a drastic step, such as murder.

<sup>56</sup>Personal communication.

<sup>57</sup>Personal communication.

The willingness and ability of organized crime to become heavily involved in public corruption can play a central role in giving organized crime access to and control over activities in a particular arena. The capacity to corrupt public processes provides significant regulatory advantages in terms of protecting an organized crime enterprise or operation as it moves into a new sphere of illegal or legal activities, and to a large extent also can be used to protect existing markets from non-organized crime competitors.<sup>58</sup>

For one jurisdiction, the combination of a reputation for violence and capacity to corrupt (both government and private operations) are the defining characteristics of organized criminal activity.<sup>59</sup> The combination of the two, developed to such a high level, may be unique among the organized criminal groups that were the focus of this report.<sup>60</sup>

### Use of Intangible Criminal Assets

Intangible criminal assets are used by organized criminal groups in a manner parallel to that in which intangible assets are used in the legitimate sector. In the "legitimate" business sector it is not uncommon for a business to use its financial power to overwhelm competitors by saturation of markets and price fixing and other forms of unfair competition. Nor are allocations of markets unknown, enforced by recourse to financial and market strength. The power of management to hire and fire, and to wield the power inherent in employer references (not to speak of blacklists), also represents the exercise of intangible but nonetheless very real power to intimidate. In exactly the same way, violence and the threat of violence are used to enforce discipline among members and associates of organized criminal groups, to regulate the status and access to business of contending criminal groups, and to influence the actions of those in the legitimate sector who interact with organized crime willingly (because of some profit to be made) or only because of intimidation.

Attempts to corrupt agencies of government by organized criminal groups are clear analogs to what is done by the private sector in the pursuit of legitimate business objectives. Organized crime will attempt to corrupt public officials so that they can pursue

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<sup>58</sup>Personal communication. See also, Charles H. Rogovin. Oral comments, Symposium on Major Issues in Organized Crime Control (Washington, D.C., September 25-26, 1986) and at Advisory Panel Meeting, this project (Washington, D.C. May 11, 1988]; and Moore, Mark H., Symposium Proceedings, Major Issues in Organized Crime Control (1987). National Institute of Justice. U.S. Government Printing Office, Washington, D.C.

<sup>59</sup>Personal communication.

<sup>60</sup>The degree to which organized crime has inserted itself into the power structure is illustrated by one prosecutor's contention that one of organized crime's major activities is to serve as a power broker to city political power. Other legitimate groups now come to recognized organized crime figures in order to obtain favorable treatment from city government, ranging from things as trivial as garbage pickups to those as serious as the awarding of multi-million dollar city contracts. Personal communication.

their criminal activities without hindrance; legitimate businessmen will lobby government to obtain the right to operate their enterprises with a minimum of government regulation, utilizing economic and public policy arguments.

### Relationship Between Intangible Criminal Assets and Activities

According to prosecutors and investigators, there is no apparent relationship between organized crime's intangible criminal assets and the kinds of activities in which it engages. Obviously, organized crime will tend to engage in those activities in which it experiences success, and to the extent that success in those activities is enhanced by the use of a particular criminal asset (such as its reputation for violence or capacity to corrupt agencies of government), those activities will tend to predominate.

### Vulnerability to Law Enforcement

There was general agreement among prosecutors and investigators that to the extent that criminal assets are used effectively, they hinder the efforts of law enforcement. Thus, if an organized criminal group effectively exploits a well-developed capacity to corrupt agencies of government, it increases its insulation from law enforcement. Similarly, effective access to legitimate sources of money can enable organized criminal groups to structure their illegal and legal activities in a way that more effectively shields their true character from law enforcement.

In general, however, there is a strong sense among prosecutors and investigators that the "value" of organized crime's criminal assets is being depleted, and at a rapid rate. For example, there is evidence that there is little remaining institutional memory for operational experience within organized crime, and that this lack of memory is of some concern to organized crime leadership. There is a wiretap transcript in which Tony Salerno expresses concern about this issue, stating that it was a serious mistake to close the membership books for entry into organized crime for as long as they were closed -- during the 1960s and 1970s very few members were made, perhaps because of an excess of caution, a fear of law enforcement, or a reluctance to share the spoils with new members. When new members were eventually brought into organized criminal groups they were "raw and green" and were often an embarrassment to the older leadership (one such new member had the bad taste, and perhaps lack of good sense, to call Tony Salerno "Fat Tony" to his face).<sup>61</sup> These new members may make their organizations more vulnerable targets for law enforcement efforts because of their inexperience and lack of socialization and integration into the organized crime environment.<sup>62</sup>

### Financial Provision for Members and Associates

No business can be successful without some system for compensating owners, partners, associates and employees for the services they render. Such compensation can take several forms: (1) direct financial benefits, e.g., wages, salary, (2) the receipt of "perks," and (3) psychological income -- the attractiveness of the work and the power

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<sup>61</sup>Personal communication.

<sup>62</sup>Such members have been turned by law enforcement and testified against others in their groups. Personal communication.

associated with it. The business of organized crime is no exception, although manifestation of compensation, perks, and attractiveness may be very different from what is to be found in the legitimate business sector. Because the issue of how organized crime provides support for its participants was regarded as an essential area of inquiry, especially in light of the total paucity of knowledge of this subject as demonstrated in the literature, we coded our cases and directed our site interviews to gain further information on this subject.

**The Data Base.** Indictments and complaints were examined for indications of the ways in which such support was provided. The results are shown in Table 5.4.

**Table 5.4**

**METHODS OF FINANCIAL SUPPORT OF MEMBERS AND ASSOCIATES OF ORGANIZED CRIMINAL GROUPS**

Method	Frequency
Direct subsidy	115
Provide real job in own legitimate business	35
Purchase real and personal property for members	17
Provide real job in own illegal business	13
Set up in legitimate business	11
Provide real job in other's legitimate business	7
Provide no-show job in other's legitimate business	7
Provide no-show job in own legitimate business	6
Set up in illegal business	3
Support of family if imprisoned	2
Provide real job in other's illegal business	1

The data base shed very little light on the subject. By far the major category was that of "direct subsidy" which was really an umbrella category to cover all of those situations in which individuals apparently derived some form of profit from an activity that was the subject of an indictment or complaint. And in many cases the pleadings were totally silent on the issue. Because of these two factors, we do not regard data on "direct subsidy" to be particularly helpful. However, the inventory represented in Table 5.4 is otherwise helpful because it provides an empirically based structure and starting point for further inquiry. It also helped us to frame our questions on the subject in our site visits to enforcement agencies.

It is obvious that in the great majority of pleadings in the data base there was relatively little mention of compensation. What there was, however, indicated that employment in the legitimate business facet of organized crime is a frequent means of support. This is not surprising since organized criminal groups are preoccupied with defense against law enforcement and the need to show declarable income for tax purposes. Actual or purported employment in legitimate enterprises can provide such cover.

**Site Visit Interviews.** Special attention was given in our site visits to the question of how, and under what circumstances, and to what extent, and in what form support was provided for participants in organized crime group activities. There was some agreement on several points. For example, there was little backing for the proposition that no-show job support was available for organized crime associates, just to be sure they are



available in case they were needed. They are not financed as a reserve force for the eventuality they may be needed in conflict. In general, the sense was that organized crime members worked, and often worked hard at either legitimate or illegitimate tasks. It was when one moved to the details that another picture emerged -- differences between geographic areas in which organized criminal groups operated, and sometimes differences based upon the organizations themselves, or the kinds of activities in which parts of the organizations were engaged.

We now turn to the jurisdictions we visited. Our interviewees spoke to us freely and did not impose conditions on the use of the information they gave us (we told them we did not wish to receive any non-public information on specific cases, and wished to obtain only non- case specific information and their informed, expert opinions. In contrast to the other sections of this report, the material in this subsection does not lend itself to analysis or descriptions across jurisdictional lines.

(1) Kansas City. To begin with, it is important to carefully distinguish between the small group of "made" organized crime members in Kansas City and the far larger number of associates and street-level affiliates. For the latter group, there is little evidence of organizational financial support of any kind beyond what the individual is able to generate on his own through illegal or legal activities. The lowest levels of organized crime -- the street level affiliates -- operate on a very simple principle -- if you don't earn, then you don't eat.<sup>63</sup>

Support for middle level organized crime figures (e.g., "soldiers," and associates) is provided in a variety of ways. Sometimes such support takes the form of cash contributions or legal services if the individual is arrested.<sup>64</sup> Support can also come in the form of real employment<sup>65</sup> in any of the different businesses in which organized crime has interests.<sup>66</sup> In addition, a labor local that is under organized crime control has always been a favorite source of jobs (both real and no-show) for organized crime members and associates.

The situation is probably different for the very small number of "made" organized crime members that control the organization in Kansas City; however, because so little is known about the inner workings of the group of made members in Kansas City, there was no direct information about how support was obtained. There is direct evidence that the families of some organized crime leaders continued to live in a very comfortable manner

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<sup>63</sup>Personal communication.

<sup>64</sup>In both cases, the source of the payments is not known to law enforcement. There is a strong suspicion that it comes from the highest levels of the organization in Kansas City, but there is no proof. Personal communication.

<sup>65</sup>Nearly all the jobs that associates have are real jobs -- the businesses owned by organized crime members are simply not big enough or sufficiently profitable to carry dead weight in the form of no-show employees or superfluous hangers on.

<sup>66</sup>There does not seem to be any particular kind of business that is used more frequently for providing such jobs. Organized crime associates are often found working in bars and restaurants, but those are the businesses often owned by organized crime figures.

after the husband had been imprisoned -- the assumption is that (1) the other "made" members had taken responsibility for continued support of the family, or (2) more likely, the individual had made some provision on his own to ensure the financial continuity of his own family.

(2) **Cleveland.** In addition to a share of the proceeds of illegal activities, there are a number of different ways in which organized crime provides financial support for its members, beyond the share earned through illegal activities. First, there is support for the families of members who have been imprisoned. Most often this takes the form of rent subsidy or free residence in a house or apartment owned by another member. Families of imprisoned members may also receive periodic gifts from other individual members, such as cash, food, or the payment of bills. In some cases, there may also be some direct cash support for families of imprisoned members, but a regular cash subsidy for the duration of imprisonment is extremely rare.<sup>67</sup> Finally, organized crime figures in Cleveland quite regularly have formal and quite open fundraisers for families or for members or associates who have fallen on hard time (such a major illness or large medical expenses). These fundraisers usually take the form of "reverse raffles" and special casino night where proceeds are given to the needy recipient.

(3) **Philadelphia.** One of the important purposes of the organization in Philadelphia is to provide jobs, both as legitimate fronts for members and associates and because many organized crime figures have children old enough to need some kind of gainful employment. Most of this employment is provided in service industries where it is hard to document whether an individual is actually on the job. Thus, there is generally an emphasis on sales jobs, sales representatives, truckers whose working hours are hard to document, and labor "consultants."

Legitimate jobs are often only covers, and provide an opportunity to declare some income for tax purposes. Thus, from the perspective of organized crime, it may be counterproductive for members or associates to take a legitimate job too seriously. In core organized crime activities (where a legitimate business is not the main focus), legitimate cover jobs are not created for the purpose of producing income.

Organized crime associates are required to make their own livings, and no one is looking out to provide them a living unless it is directly tied to an illegal activity, e.g., a job in a pizza parlor through which drugs are being distributed. Associates are expected make illegal earning and to spin off a percentage of those earnings to those higher in the organization. To be "made" one has to be a producer, not a mouth to be fed.<sup>68</sup>

(4) **Chicago.** Chicago may be the only organized crime organization in the country in which some street level associates actually receive a modest "salary" from the organization, regardless of their production. In at least one instance, there is evidence that "made" members of a street crew also received a Christmas bonus. However, the bonus was distributed at Christmas gambling party and there was less than subtle pressure put on

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<sup>67</sup>The reason is that, except for the highest levels of organized crime, cash is a rare commodity -- stolen goods or the opportunity to provide in-kind services are more readily available. Personal communication.

<sup>68</sup>Personal communication.

all recipients to gamble heavily. The result seemed to be that the recipients of the bonuses ended up losing both their bonuses and a substantial amount of their own money.<sup>69</sup>

However, the general picture seems to resemble the situation in other jurisdictions -- the majority of organized crime associates do not receive anything from the organization beyond their share of what they can earn, and there is little evidence that spouses and families of organized crime members or associates are taken care of in any systematic way if husbands are imprisoned.<sup>70</sup> In fact there is evidence in one case that a crew members' income producing activities were taken away upon his imprisonment and not returned to him on his release. Some associates who have not been taken care of after their arrest have turned against their crews and become government witnesses and informants. Extension of such support is one way that law enforcement identifies "made" members -- if an individual or his family is supported upon his incarceration, he is probably a made member of organized crime.

In terms of employment, members and associates are almost always employed in some legitimate capacity, doing their criminal work on the side. Many members and associates are actually on the payroll of the city, itself.<sup>71</sup> Many of these legitimate jobs (or jobs that appear to be legitimate) are provided through connections maintained by organized crime. Many are provided through the vending companies or construction companies that are owned or controlled by organized crime. Labor unions are also a source of employment, but most such jobs are not "legitimate," for example, an individual may be made a business agent for a union, and the job description will be suitably nondescript to allow the individual lots of mobility and a minimum amount of accountability or supervision.

(5) New York. The most important consideration regarding financial provision for "made" members in New York is that many such individuals have legitimate jobs at which they work quite hard. Many drive their own trucks or work in their own restaurants or bars. There is almost never provision made for them for support from the organization (presumably they derive their incomes from these legitimate jobs and other sources through the criminal group).

For associates no-show jobs are far and away the common method for providing financial support. A good opportunity for provision of a no-show job is when (1) the business has sufficient profit to support such jobs, (2) there is little ability or opportunity to

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<sup>69</sup>Personal communication.

<sup>70</sup>Personal communication.

<sup>71</sup>The Department of Streets and Sewers has been a ready source of employment for organized crime members and associates. In one case, an associate had a job with Streets and Sewers that consisted of inspecting street signs in one section of the city. His only responsibility was to submit a monthly report noting the location of street signs that needed repair or replacement. To perform these duties, he was provided a city-owned vehicle. In addition to performing his duties for the city, he also was a collector for a bookmaking operation, making his daily pickup rounds in the city vehicle at the same time he was inspecting street signs. Personal communication.

document the presence or absence of a worker, and (3) there is a reasonable job description to cover or hide the supposed activities of a no-show worker.<sup>72</sup>

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<sup>72</sup>An interesting twist on this is the use of a real job to extract payment from an individual for a loan. Here the debtor is provided with a real job and either a portion of his salary is taken in repayment, or he receives no payment at all until the debt is paid off. Personal communication.

## VI. ACQUIRING OWNERSHIP OR CONTROL OF BUSINESSES

### Introduction

In the legitimate business environment ownership or control stems from purchase, investment, inheritance, or the recognition of some needed ingredient or talent, e.g. sales contacts or special skills. Organized crime figures, when they move to ownership or control of legal or illegal businesses, acquire their interests in the same ways, though how they implement ownership or control may be quite different from what is found in the legitimate business environment.<sup>1</sup>

In their takeover or investment attempts organized crime figures will, of course, act in different ways depending on the purpose for which they move to acquire ownership or control. There is no reason to believe they will act any differently than legitimate businessmen when they buy interests in legitimate business, memorializing their property acquisitions by bills of sales, deeds, and other legal instruments. They may be expected to behave very differently and to memorialize their property interests very differently when they exercise their powers to extort or threaten in order to gain control of a legitimate firm, or acquire interests in a illegitimate one.

The concept of ownership is not a simple one. The most obvious forms of ownership and control involve legal title, in the case of a legitimate business, or from the fact of day-to-day operation of a venture where legal title is not appropriate -- such as a loansharking or street gambling business. One of the less obvious methods, but one that is still familiar to observers of the organized crime scene is the use of legal front, or nominee, to hold title for the true owner<sup>2</sup> -- which is frequently the case where there are regulatory restrictions on who may own particular businesses, for example with respect to restaurants or sellers and dispensers of alcoholic beverages.<sup>3</sup> Beyond all these, however, are methods that stretch normal definitions of ownership. These include, among others, the following:

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<sup>1</sup>One of the ways in which organized criminal purchasers of businesses differ from most others is illustrated in the following:

Well, one thing that we found is that organized crime figures have a major problem with money; not lack of, but too much of it. It sometimes is almost treated as Monopoly money. And one of the simplest ways that they use this money is to give it to a straw, which is the word that's used to identify an individual who represents them, and give it to them for the purpose of having them buy a company or set up a company. That's the simplest way in which organized crime can get some control of legitimate business.

Statement of James S. Kossler (FBI). President's Commission on Organized Crime: Federal Law Enforcement Perspective. Washington, D.C.: U.S. Government Printing Office, November, 1983, p. 110.

<sup>2</sup>For example, see *United States v. Stevenson*, CA-49.

<sup>3</sup>Ownership is no less real because covert. Fronts may "own" businesses, but it is not at all uncommon for organized crime to have a full-time representative on-site, to make the day-to-day business decisions. Personal communication. For example, in *United States v. Leary*, MA-365, defendants obtained liquor and adult entertainment licenses through falsely representing the identities of the true owners and operators of the businesses. A real estate company was used to provide false real estate leases in the names of the nominal owners. In addition, cash payments were made to the individuals whose names appeared on the licenses, for the use of their names.

1. **Debt.** The owner of record of a business may have little actual control over it because he is in debt to an organized crime figure or group. Usually the debt will be callable at any time, giving the "equitable" owner the right to take the business over at any time.<sup>4</sup> The debt is also a vehicle for extraction of profits. This method of indirect ownership is not unknown in the legitimate sector as well, though perhaps not so harshly applied.
2. **Contract.** The owner of record of a business may have more control over it, but that control still is essentially limited by the interests of suppliers of goods and services. A business may be financed by such a supplier (of food products or linen services for example, or consultant services) under terms and conditions that give significant say to the supplier as to how the business will be operated, and who other suppliers would be. Such contracts are also vehicles for the extraction of profits. The franchise agreement is a typical tool for maintenance of indirect ownership, allowing the owner of record to assume all the public burdens of ownership but requiring operations that conform to strict rules and to agreements as to extraction of profits.<sup>5</sup> Franchise control methods often involve control through debt as well.<sup>6</sup> The methods used mirror those in legitimate franchising operations, which often involve strict controls and financing by franchisors, but in a milder and more beneficent environment.

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<sup>4</sup>Early in the 1980s, the Perlman brothers, former principals in a Las Vegas gambling casino, set up Regent Air to provide luxury flights at much more than the usual first class flight costs between New York and Los Angeles. The Civil Aeronautics Board tentatively approved the airline's flight certificate "under strict conditions that the Perlman brothers divest their ownership and control of the airline" because of their organized crime connections. Yet, as noted by the Department of Transportation's assistant secretary for policy and international affairs, these actions "do not eliminate the Perlman's ability to 'control Regent Air' because they remain its largest single creditor, holding over half its total indebtedness. Bellevue (WA) Journal-American, AP story datelined Washington, D.C., p. D3, 3/14/85.

<sup>5</sup>In *United States v. Giacalone*, MI-91, it was charged that the defendant determined that amount of money that individual had to pay as tribute or a "franchise fee" to run a bookmaking operation in Detroit. He also provided the same kind of consulting service to his subordinates and franchisees that a legitimate franchisee expects from a franchisor -- advice and counsel on running the business and collecting receivables. Another defendant was allegedly responsible for marketing and sales -- directing bettors to franchisees -- the maintenance of records on the gambling operations, and advice to franchisees on collections. Apparently, franchisees also had franchisees of their own (sub-franchisees) who were running bookmaking operations of their own. The indictment states that defendants would meet to discuss the percentage of profits the franchisees were to retain.

<sup>6</sup>Illustrative of the combined use of franchise and debt as control mechanisms is the pizza vending business in Pennsylvania, as described by the Pennsylvania Crime Commission. The predominant mode of starting up these businesses was what might be described as quasi-franchising. Sites were sold or leased, with financing provided by the sellers directly or through loan sharks. The franchise maintenance costs were very high, the franchisees were told in advance that if they did not pay they were to cooperate in the torching of their locations for insurance funds to pay off the purchase fees for the franchises, and there were strong intimations that profits were also being skimmed to pay off the debts. Pennsylvania Crime Commission. A Decade of Organized Crime: 1980. St. Davids, Pa.

The fragility of the concept of ownership is dramatically illustrated by the testimony of James Fratianno, who described aspects of ownership of gambling casinos almost as if there were two classes of stock ownership, legal ownership that was real and more than a front, but also a second, privileged class of ownership. He put it this way: ". . . . we didn't own part of it on paper, but we were going to run [it] and we would count the money and take what we wanted and leave the rest for dividends for the people that owned it."<sup>7</sup>

Closely related to questions of how organized crime groups gain control of business enterprises, whether criminal or legitimate, are a number of other issues that emerged in the course of our inquiries:

1. What makes particular legitimate businesses targets for organized criminal group acquisition attempts?
2. What methods are used to accomplish partial or complete takeovers?
3. How are profits extracted from business enterprises, particularly those in which it is difficult to acknowledge ownership interests?

**The Data Base.** Recognizing that information on this subject would be difficult to obtain through examination of criminal indictments and civil complaints, we nonetheless coded cases in the data base for indications both of illegal and legal methods of ownership and control of businesses. The results, from the examination of these pleadings are set forth in Table 6.1 and Table 6.2.

Table 6.1

**LEGAL METHODS OF ACQUIRING  
OWNERSHIP/CONTROL OF BUSINESSES**

Method	Frequency
Self-Established/Built	91
Election (to labor union, Corporate board, etc.)	34
Purchase	20
In Lieu of Legitimate Debt Repayment	1

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<sup>7</sup>President's Commission on Organized Crime, Record of Hearing II, Organized Crime and Money Laundering, 1984. Washington, D.C.: U.S. Government Printing Office, at p. 31. Fratianno expanded on this story:

Well, this fellow, Eddie Nealis, he was the owner. He was the originator of the casino and had other people put shares in . . . I mean on paper, and a couple of guys from Los Angeles went to shake them down and he knew he needed some help . . . So he called Frank Bompensiero and myself and he said look these guys are after me, and he said, get them off my back and you got half of the casino.

Table 6.2

**ILLEGAL METHODS OF ACQUIRING OWNERSHIP/CONTROL OF BUSINESSES**

Method	Frequency
Extortion	15
In Lieu of Loanshark Debt	4
Bribery	1

In most instances, there was no clear indication from the data base of how the legal or illegal business enterprises referred to in the indictments were acquired. Where an inference could be drawn in the case of legal acquisitions, we categorized the method of acquisition as indicating that the owners or control groups had started up and built their enterprises. We do not consider this category very helpful; it masks more than it discloses.<sup>8</sup>

(1) Stages in the Acquisition of Interests. Examination of these cases suggests that takeovers and acquisitions of business interests, which are not direct purchases, tend to occur in stages. First there will be a transaction not apparently related to takeover and control -- such as a loan or assistance with a particular business project. The second stage is pressure for repayment, or for acknowledgment of an obligation stemming from other forms of assistance rendered. Finally there will be intimidation, or threat of the withdrawal of some benefit conferred, e.g. access to a profit-making situation, coupled with a direct demand for transfer of an interest in the business.<sup>9</sup> Takeover pressures are likely to start in low key and then be intensified.<sup>10</sup> In the traditional loansharking situation

<sup>8</sup>An important point to remember here is that there are any number of ways beyond those shown in Tables 6.1 and 6.2 for organized crime figures to profit from ownership, control of or interest in a business. They do not have to extort ownership of a legitimate business, or build a business from scratch. When there is an opportunity they can and have invested in an ongoing company, or purchased the company and contributed special value to it. For example:

. . . . convicted racketeer Vincent Marino made a small investment in a container repair company known as Marine Repair Service. The company then became highly profitable because of the business steered to it from specific piers in Brooklyn and Staten Island.

President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office, March, 1986, p. 52-54.

<sup>9</sup>For example, see *United States v. Castellano*, NY-85.

<sup>10</sup>The operation of these stages are seen in *United States v. Parness*, NJ-567, involving allegations against Tony Salerno and the Genovese Family. Three individuals (including defendant DeFillipis) approach defendant Parness for financing (approximately \$3 million) to start a sand and gravel company. Later Parness and the other Genovese defendants decided to take over ownership of the company, removing the two non-defendant owners, agreeing that Parness and DeFillipis would divide ownership of the company. DeFillipis was to have 25%, defendant Schwartz was to have 25% and the remainder was to be owned by the other Genovese defendants.

The two non-defendant owners were forced out of the business through threats of violence (the indictment does not state whether they were paid anything for their interests or were simply forced out). The



debts are run up, over time, with control ultimately moving to the loansharks. In its most crude form this pattern of stages can be seen in one New York case.<sup>11</sup> In this case it was alleged that organized crime figures started frequenting an establishment, then they talked about buying it, then started running up tabs and beat up the restaurant manager, and finally made it clear that they wanted ownership without paying anything.

(2) Control of Unions. The largest category of methods of ownership/control is that of election, representing more than 20% of all of the cases in the data base.<sup>12</sup> Almost all of these cases involved labor unions, which we treated as businesses for the purposes of this work because the leaders of such unions clearly regarded their organizations primarily as businesses that existed to produce personal profits for their owners. Though the method of acquisition was election, it is questionable whether this process was always with the free consent of the union memberships.

It should be noted that control of a union may be obtained by purchase rather than by election -- even intimidation-based election. In one incident, which came to the attention of the President's Commission on Organized Crime (1985), there was direct testimony on the actual purchase of a union, and its membership.<sup>13</sup> The "purchaser" testified that he had "bought" a union of security guards from its then international president for \$90,000. The outgoing president then simply resigned and turned all of the powers of his office over to the purchaser -- who proceeded to exploit his position. The aura of purchase was unmistakable and complete, and acknowledged in the testimony of the purchaser:

. . . The constitution and bylaws of their union permitted the incoming president to elect his own officers . . . to appoint a successor. So the membership really had no right to vote or to state any opinion one way or the other.<sup>14</sup>

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indictment does allege that the defendants continued to try to collect up to \$1 million dollars from one of the non-defendant owners who had been forced out. It appears that he was forced out of the business but still held responsible for some portion of the original loan required to set up the business.

The indictment alleges that at a later point, one of the architects of the original scheme, DeFillipis, himself becomes a victim -- having his share of the company involuntarily diluted by the other defendants. From a 25% share, he was reduced to a partnership with defendant Schwartz in 1/3 of the business.

<sup>11</sup> *New York v. Riviello*, NY-10.

<sup>12</sup> The importance of control of a union to organized criminal groups is widely recognized. For instance:

The control of labor unions by organized crime members allows them to be full service organizations to their criminal associates and the business community as well.

Statement of James S. Kossler (FBI). President's Commission on Organized Crime. *Organized Crime: Federal Law Enforcement Perspective*. Washington, D.C.: U.S. Government Printing Office, November, 1983, p. 99.

<sup>13</sup> President's Commission on Organized Crime. Organized Crime and Labor-Management Racketeering in the United States, Record of Hearing VI (April 22-24, 1985). Washington, D.C.: U.S. Government Printing Office, 1986, at p. 361 et seq.

<sup>14</sup> President's Commission on Organized Crime. Organized Crime and Labor-Management Racketeering in the United States, Record of Hearing VI (April 22-24, 1985). Washington, D.C.: U.S. Government Printing Office, 1986, at p. 367.

(3) **Payment for Interests Acquired.** In 12% of the cases in the data base the businesses were acquired by organized criminal groups through direct purchase, presumably reflected in legal transfer documents. As noted above, payment for direct or indirect ownership interests may be made in the form of cash, or loans, or some other form of consideration. There were a number of forms of payment, entitling the "investor" to a share of the profits, that were highlighted in the data base. Such payments are frequently in the form of some contribution to the success or growth of the business, and it may arise in a number of forms. For example, Margaret Salerno had very little knowledge of the food industry and appeared to do no work when she collected substantial food brokerage commissions from Marathon Enterprises, which had food concessions at major public sites. In fact other [legitimate] commission brokers were collecting commissions on the same sales attributed to her. The prosecutor argued in his summation that the payments represented compensation to her husband, Anthony Salerno, for his help in assisting in the growth of the business through his influence -- in effect, the Salerno equity in the business was "bought" by Salerno's marketing services.<sup>15</sup> And in another aspect of this same case the prosecutor submitted proof that three of the defendants had hidden interests in the most successful of the corporate subcontractors involved in the "club" that controlled all major subcontracts for concrete construction in the Borough of Manhattan, which reflected the fact that this business had achieved its prominent and successful position only because of the efforts contributed by the organized crime defendants.<sup>16</sup> These payments clearly were not extortion, but rather acknowledgments of equity-like contributions to the size and profitability of the business ventures themselves.

Organized crime figures show themselves to be quite resourceful in financing their purchases of business interests. Certainly they will often use the profits of their illegal enterprises. But they are not unaware of other possibilities. Influence with banks makes it possible to finance their purchases, and programs to make public funds available for area or industrial development have also been tapped.<sup>17</sup>

**Site Visit Interviews.** Experienced law enforcement supervisors had far more light to shed on how organized criminal groups establish or take over both illegal and legal businesses. Much of this was impressionistic, buttressed by references to innumerable experiences. For the most part there were common perceptions that provided a more comprehensive view of the issue.

(1) **Acquisitions Without Payment.** Obviously, with respect to totally illegal businesses, such as loansharking, drug trafficking, and street gambling, there is no purchase as such, though there may be investments to acquire part of the profits of such

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<sup>15</sup> Salerno Transcript, 188825, 19708-19730.

<sup>16</sup> Salerno Transcript, 19472.

<sup>17</sup> It should be noted that where organized crime purchases a business or an interest in a business, the financing of the purchase may be suspect. Jimmy Fratianno testified that his purchase of an interest in a trucking business in Chicago was financed with loans from organized crime-connected individuals within the lending bank. Testimony of James Fratianno. Organized Crime and Money Laundering, Record of Hearing II. President's Commission on Organized Crime. Washington, D.C.: U.S. Government Printing Office, March 14, 1984, pp.55-56. See also, Pennsylvania Crime Commission. A Decade of Organized Crime: 1980. St. Davids, PA., at p. 232.

enterprises. Control may pass when one group achieves dominance over another through the application of overwhelming strength or a perception of willingness to ruthlessly apply such strength.<sup>18</sup> In some instances control of an organized criminal group enterprise will pass from hand-to-hand in settlement of a dispute between two individuals, or as payment for particularly good performance.<sup>19</sup>

In most of the jurisdictions where we conducted our site interviews it was believed that the major single avenue for taking over legitimate businesses was via loansharking -- embroiling businessmen who needed capital, and then using extortion to take over their businesses. The point was made, however, in one jurisdiction, that major takeovers frequently result from the use of unfair competition, where overt force or threats are hardly required. The argument is that much of the advantage of an organized crime group lies in its ability to control labor unions and to corrupt low level regulators and public officials. Organized crime-controlled businesses can actually out-compete their legitimate competitors. In a very short while the exploitation of this advantage results in organized crime domination of a sector of a local economy. Organized criminal groups do not have to resort to extortion under such circumstances.<sup>20</sup>

(2) **Acquisitions Due to Mutual Self-Interest.** There was considerable support, in both the data base and the interview data, for the additional (not conflicting) view that a large part of organized control takeovers of interests in business enterprises does not involve victims, but rather the eagerness of businessmen who see advantages in the collaborative contributions of organized crime figures.<sup>21</sup>

**Conclusions.** There was no consensus on whether the predominant method of acquiring either illegal or legal businesses is by establishing them initially, or taking over the efforts of others. As might be expected, this depends on local conditions, and on whether there are long established businesses or new opportunities in fluid areas of business. Examples of the latter are organized crime involvement in the disposal of toxic or hazardous waste, and (more recently) the formation of firms to contract for legally mandated removal of asbestos from schools and other buildings.<sup>22</sup>

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<sup>18</sup>*United States v. Argenti*, RI-564, clearly illustrates the strong-arm takeover of a legitimate business. Here the defendants, through threats against the owners, allegedly installed themselves in the business -- occupying the business premises, opening the business' mail and directing the hiring of the business staff. In addition, they were alleged to have forced the legitimate owners to pay tens of thousands of dollars out of the business, including one-third of the accounts receivable.

<sup>19</sup>Personal communication.

<sup>20</sup>Personal communication.

<sup>21</sup>*Salerno* Transcript, 14972; Personal communication. For example, in *United States v. Ianniello*, NY-80, it was alleged that the defendants, who were debarred from government contracts, engaged in a kickback scheme with carting companies that had not been debarred from competing for government contracts. Although it is not clearly apparent from the indictment, it is indicated that the legitimate companies involved in this aspect of the case willingly entered into the kickback arrangement with defendants. According to the indictment, the defendants received an astonishing percentage (up to 50% in one case) of the value of the carting contracts that were obtained by the legitimate carting companies.

<sup>22</sup>Personal communication.

Finally, there is no reason to think that organized criminal groups act differently than other businessmen when they acquire an interest in a business. They will take back debt instruments to evidence debts, their fronts will take deeds or shares of stock, and in general will comply with all of the formalities of starting and operating a business. They generally will follow regular procedures.<sup>23</sup>

### The Role of Monopoly

There was universal agreement among the interviewees as to the central importance of monopoly power in the acquisition and building of organized criminal group businesses.<sup>24</sup> It was felt that monopoly power was particularly important to organized crime where it is present in an operational day-to-day level in a legitimate business sector, but not where involvement is simply for investment purposes. There was a sense that the importance of monopoly power in areas of strictly illegitimate business (e.g. street gambling or loansharking) was of declining importance to organized crime, though still a factor. There were many signs of the abatement of stern enforcement of territorial allocations in connection with illegal enterprises, including the transition to street taxes.<sup>25</sup> It is clear that organized criminal groups sometimes continue to operate illegal businesses in competition with those they tax,<sup>26</sup> and there is a conceptual problem whether there is still a monopoly when the shift is made from operation of businesses to taxation of businesses.<sup>27</sup>

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<sup>23</sup>Personal communication. But see also, Michael J. Libonati and Herbert Edelhertz, "Study of Property Ownership and Devolution in the Organized Crime Environment" (unpublished paper), which noted that transfers of business interests and other property in the New Jersey/Eastern Pennsylvania area, there was little attention paid to the formalities, in fact almost a total disregard of them.

<sup>24</sup>There is nothing surprising in this, either from the law enforcement or academic perspective. At least 20 years ago it was clearly understood that:

Regardless of what we think we are trying to do, when we make it illegal to traffic in commodities for which there is an inelastic demand, the effect is to secure a kind of monopoly profit to the entrepreneur who is willing to break the law. In effect, we say to him: "We will set up a barrier to entry into this line of commerce by making it illegal and, therefore, risky; if you are willing to take the risk, you will be sheltered from the competition of those unwilling to do so."

Herbert L. Packer. (1968). The Limits of the Criminal Sanction. Stanford, California: Stanford University Press, p. 279.

<sup>25</sup>Site visit interviews clearly indicated that there continues to be a concerted effort by organized crime to monopolize gambling, but it is a peculiar kind of monopoly. The monopolistic push has been to preserve small enclaves within cities rather than to establish city-wide or regional monopolies. In fact, there are non-organized crime gambling operations that exist in nearly all cities. There generally is no competition between organized crime and these non-organized crime operations so long as there has been no invasion of organized crime's "turf." The survival of these non-organized crime gambling operations apparently stems from the fact that organized crime simply has chosen not to attempt to exert its control over these other groups. Personal communication.

<sup>26</sup>On the other hand, there are also indications that organized crime-dominated businesses cooperate with one another to a fairly great extent. With respect to cooperation, Reuter points out that in the solid waste collection business, firms tend to be minimally capitalized, with the result that if there is ever a problem the firms might not be able to service their customers. Thus:

The crudest manifestations of monopoly power, involving unalloyed intimidation and violence are familiar to any observer of the organized crime scene. We did not focus on this area of organized crime operations in our site visits or reviews of other materials, instead concentrating on more sophisticated approaches to the development of monopoly power -- where intimidation was less blatant and only one facet of achieving monopoly power.

The New York concrete construction industry may be a paradigm for how restriction of competition operates to establish, expand, and perpetuate organized crime control of an area of business.<sup>28</sup> No building could be constructed in the Borough of Manhattan without the work of concrete construction subcontractors. Their work represented a significant part of the cost of the final structure. The three indispensable parts concrete construction subcontracting are: (1) control of labor, (2) control of raw materials, and (3) control of prospective bidders, through economic intimidation, or appeals to their self-interest. These three elements were mutually reinforceable in this case. The organized crime figures who allegedly orchestrated this scheme imposed these three control elements with considerable skill. Control of labor was central, since any work stoppage would impose hemorrhaging losses on a non-cooperating concrete construction subcontractor. This was supplied by organized control influence over the key unions involved. Control of raw materials was accomplished through its concentration in one supplier, who bought up other suppliers, and who, by delays in deliveries could cripple a non-cooperating concrete construction contractor as effectively as could a labor slowdown or stoppage. Finally, all possible concrete construction competitors were intimidated, not by threats of force, but by threats of labor slowdowns and (in some instances) by the promise of participation in the profits of a non-competitive market. One major competitor from outside of New York City, with very substantial resources and an impressive track record in the industry, who intended to come into Manhattan to buck this syndicate and bid on a job measured in tens of millions of dollars, withdrew in the face of this impenetrable array of obstacles.<sup>29</sup> Little wonder that smaller organizations were willing to go along, and to be content with the smaller (under \$2 million) subcontracts that were lesser interest to "the club" that was allocating the bids. There was little indication that the threat of physical violence or violence against the property of against non-cooperating potential bidders was ever necessary.

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. . . . many carting firms started with minimal capital and no reserve equipment. Trucks broke down frequently, particularly the earlier vintage trucks. The only way each firm could offer the uninterrupted service customers needed was to have reciprocal arrangements with other carters to provide backup in the event of equipment failure.

Reuter, Peter. (1988). Racketeering in Legitimate Industries: A Study in the Economics of Intimidation. Santa Monica. California: The Rand Corporation, p.8.

<sup>27</sup>Personal Communication.

<sup>28</sup>See New York State Organized Crime Task Force. Corruption and Racketeering in the New York City Construction Industry. Interim Report. June 1987.

<sup>29</sup>Salerno Transcript, 19373-19384.

The concrete construction case may be the most visible and important of the cases illustrating the role and importance of monopoly in acquiring ownership and control in business areas, but it is only one of many such examples. Monopolies in other areas may be established by different means. One common approach, also not dependent upon the threat or application of violence, is simply to bring in resources to underbid competitors until they are driven out, using the profits of illegal business to finance this marketing campaign, and then to raise rates. This was done effectively with carting contracts, in which one organized crime controlled business gave a town three months of free service in order to win a contract. There were no competitors when the contract came up for bid again.<sup>30</sup>

In some instances monopoly power may flow from the capability to influence the contracting power or government or private sources that have the power to call for and respond to bids. In connection with food and refreshments to be supplied to the Bronx Zoo in New York City, where certified letters were ordered to be sent to potential bidders, many of these unopened bid solicitations were found in the possession of an alleged organized crime associate -- which indicated that there was general knowledge of who the prospective bidders were going to be. It is not clear whether these competitors were intimidated into surrendering their letters, or whether the organized crime figure obtained them in some way before they were received by the intended recipients.<sup>31</sup>

Trade associations are another, frequent tool used to maintain monopolies, particularly attractive to Cosa Nostra. The use of such associations was described as follows:

[LCN] develops and obtains control of waste and trade associations, the membership of which is made up of the waste haulers operating in the area. Through the association it is able to dictate the price that the haulers will receive for their services. And it uses the property rights principle to prevent the customers from switching to another hauler to obtain better terms. The haulers are assured of a given territory in which to operate and are able to obtain higher prices for their services through bid-rigging.<sup>32</sup>

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<sup>30</sup>Personal communication.

<sup>31</sup>Salerno Transcript, 19809- 198111.

<sup>32</sup>Organized Crime's Involvement in the Waste Hauling Industry. A Report from Chairman Maurice D. Hinchey to the New York State Assembly Environmental Conservation Committee. July 24, 1986, p. 12.

A third method of attaining and maintaining monopoly in a market segment involves a combination of legal and illegal activities. It was put this way by the then Director of the FBI:<sup>33</sup>

... Still another edge comes from the practice of putting laundered funds from illegal activities into legitimate enterprises. This allows organized crime to undercut competition by reducing the costs of doing business. By such predatory tactics organized crime enterprises have been successful in driving legitimate competitors out of business and creating for themselves a monopolistic effect in certain industries where their influence is substantial.

### Organized Crime Business Affinities

Much thought has been given over the years to the question of what kinds of businesses are vulnerable to organized crime takeovers. We suggest that the stress on "vulnerability" is misplaced, since many business organizations in which organized crime figures become involved are those where: (1) the owners invite such participation because they perceive some benefit, (2) the owners willingly acquiesce for the same reason, or (3) organized crime figures actually establish new businesses (though this may well indicate the vulnerability of a particular business field, as opposed to any one single firm).

There is need here to repeat our understanding of the term "business" to include any organization that would appear in the private sector in a legitimate posture, whether or not it would customarily be regarded as a commercial venture. The key test is whether it is such an organization, and that it be a source of personal profit for its owners or for those in control. It could thus be a conventional manufacturing or service business, or a union that is exploited for the benefit of its officers or others.

**Targets of Opportunity.** Except in some minor details, our data base and site visit interviews added little to current views of why particular kinds of business are targets for organized crime takeovers. We have earlier pointed out that some businesses are "attractive" to organized crime groups. It is a mistake, however, to think that this represents anything more than a predilection toward particular kinds of enterprises. Organized crime figures tend to gravitate toward targets of opportunity, and are open to nearly all possibilities. It is difficult to inventory all of the kinds of business enterprises in which organized crime figures involve themselves, but a partial listing, showing the range of possibilities can be seen from the surveys of the "legitimate" business activities of

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<sup>33</sup>Statement of FBI Director William H. Webster. President's Commission on Organized Crime. Organized Crime: Federal Law Enforcement Perspective. Washington, D.C.: U.S. Government Printing Office, November, 1983, pp. 21-22.

organized crime figures and groups in one area, by the Pennsylvania Crime Commission in 1980:<sup>34</sup>

Anti-pollution contracts	Coal mining
Automatic car washing	Consumer loans
Automobile sales	Defense contracts
Banking	Garment manufacturing
Breweries	Hotels, bars and restaurants
Building contractor equipment	Oil distribution
Building construction	Pizza parlors
Cable TV	Real estate development
Casino gambling	Trucking
Cheese wholesaling	Vending machines
Cigarette wholesaling	

**The Data Base.** Table 6.3 shows the highly varied legitimate business firms described within the four corners of the pleadings in the project data base. It should be kept in mind, however, that the context in which these businesses were pursued was often far from legitimate. In most instances these firms, albeit apparently operating legitimately, played some part in overall criminal enterprises. An organized crime figure:<sup>35</sup>

might, for example, acquire a legitimate business that is complementary to one of his illegitimate enterprises, e.g., a bar may complement a retail cocaine or loansharking business.

Similarly, limousine services are on the list; the specific case involved an allegation that an otherwise legitimate limousine service was used to distribute cocaine.<sup>36</sup> We do not show the frequency with which these business firm types appeared because they are listed here to demonstrate the virtually unlimited range of organized crime interests. The frequencies we obtained showed no more than would have been anticipated before this data was collected, with concentrations in restaurant operations, union activities, construction, adult entertainment, and wholesale sales.

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<sup>34</sup>Pennsylvania Crime Commission. A Decade of Organized Crime: 1980. St. Davids, Pa.

<sup>35</sup>Reuter, Peter. (1988). Racketeering in Legitimate Industries: A Study in the Economics of Intimidation. Santa Monica. California: The Rand Corporation, p.6.

<sup>36</sup>*United States v. Schultz*, CA-187.



Table 6.3

**INVENTORY OF LEGITIMATE BUSINESSES  
FROM THE DATA BASE**

Adult Book Stores	Investment - Securities
Adult Entertainment	Labor Relations Consulting
Air Freight Services	Law Enforcement
Auto Sales	Limousine Service
Auto Wrecking/Auto Parts	Linen Supplies
Banking	Mail Order Services
Bar/Tavern	Manufacturing
Building Material Supplies	Massage Parlors
Cargo Container Handling	Mortgage Lending
City Government	Moving Services
Construction/Commercial	Pension Investment Services
Employee Fund Administration	Photography Studio
Equipment Repair Service	Real Estate Services
Escort Services	Restaurant Operations
Financial Services	Retail Sales
Food (pizza)	Solid Waste Disposal
Food Products	Stock/Securities Trading
Gambling	Tow Truck Operations
Gambling Casino (Licensed)	Toxic Waste Disposal
Health Care Services	Transportation
Health Spa	Transportation Services
Hotel/Motel Services	Union Administration
Importing	Wholesale Sales
Insurance Services	
Investment - Coins	

(1) **Desirable Target Characteristics.** It has often been observed that organized crime figures are drawn to firms and organizations that deal largely in cash (e.g. for skimming opportunities) or that are strategically placed to provide choke points. In these instances and others, it was noted that businesses with a cyclical nature are particularly vulnerable to takeovers of interests -- based on the need of their proprietors for loans that will tide them over business crises. In some instances businesses may go from job to job, such as construction firms, where capital is needed while waiting for payment on previous jobs. In others, businesses are seasonal in nature, such as the garment industry, with times of high activity, waiting for payment, and then periods of low activity while efforts are being made to stay alive and preparing for the next cycle.<sup>37</sup> Other business areas that represent high level takeover opportunities are, as noted above, those that are chaotic and unregulated by the trades involved or government.<sup>38</sup>

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<sup>37</sup>Personal communication.

<sup>38</sup>Consent Judgment in *United States v. Local 359 et al.* in the United States District Court, Southern District of New York. #87 CIV 7351 (TPG).

(2) **Extraction of Profits.** When organized crime figures involve themselves in business enterprises they must necessarily arrange for ways to extract the profits of the businesses. In many, perhaps most instances, this will involve simple and crude steps. Gambling and loansharking are illegal in most instances, and the profits derived from such ventures are simply spent or laundered in some way before being turned to other uses. Where businesses are legitimate, but are cash intensive, such as vending machine operations, legal casino gambling, or pizza parlors, crude skimming is found as the method of extraction.<sup>39</sup>

There have been instances in which a business is set up for the sole purpose of handling kickbacks and payoffs, e.g., as a pass-through for payoffs. This situation is most familiar in connection with kickbacks from union welfare plan administration schemes, but it is also often used in dealings between organized crime (whether or not in a labor context) and private enterprises. At the Miami airport an exclusive organized crime contract was established for the consolidation of cargoes to be shipped from the Port of Miami to overseas destinations. This contract was used to generate funds to pay off union officers.<sup>40</sup>

Where monies are actually put into a firm, in the form of equity in investment or loans, extraction of profits is a relatively simple matter, as in any legitimate business context -- in the form of dividends or debt repayments. But the situation becomes far more complex where interests are covert. The *Salerno* cases<sup>41</sup> illustrates these complexities. The potential profits from the concrete construction bid-rigging scheme were potentially enormous, and several of the defendants went to great pains to withdraw profits based on their hidden interests in the largest of the concrete construction subcontracting firms. There is no indication that they purchased this interest for cash, but the assistance they provided enabled the firm to expand its business tenfold once the scheme was implemented.<sup>42</sup> The firm moved money out by a variety of methods. It purchased property from defendant Castellano at a substantially inflated price, obviously calculated to give him the value of the property plus an amount based on profits from his 25% hidden interest in the firm.<sup>43</sup> The firm moved property to the girlfriend of another defendant in a complex transaction in which property was purchased with company funds and sold to her for \$168,000 less than the basic purchase price, and money for costly renovations were thrown in for good measure.<sup>44</sup> In this same case payments were made to Salerno's wife for her highly

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<sup>39</sup>Pennsylvania Crime Commission. A Decade of Organized Crime: 1980. St. Davids, Pa. at p. 222-224.

<sup>40</sup>President's Commission on Organized Crime. The Edge: Organized Crime, Business and Labor Unions. Washington, D.C.: U.S. Government Printing Office, March, 1968, p.63.

<sup>41</sup>NY-74; NY-517; NY-518.

<sup>42</sup>*Salerno* Transcript, 18910.

<sup>43</sup>*Salerno* Transcript, 24291.

<sup>44</sup>*Salerno* Transcript, 17481-17487.

problematic commission food brokerage services as the avenue for extraction of profits for the venture that he made possible.

In the cases in the data base there was only occasional reference to how profits were extracted by organized crime figures, from their illegal or legal businesses. More common were simple allegations that funds or assets had been extracted, without specifics as to the mechanics of extraction. Our examination of the trial summations in the *Salerno* case suggests that future inquiries, focused on this issue, would make it possible to develop inventories of the manner and means of such extractions. This could probably be done most efficiently through extensive interviews with selected investigators, and especially with those from the Internal Revenue Service. Such an inventory would be a valuable guide, or checklist for investigators, and help to further understanding of organized crime operations.

## VII. DISCUSSION

### The Operations of Organized Criminal Groups

This study lends further credence to the view, often expressed but without empirical data of any kind, that the business operations of organized criminal groups are conducted, wherever possible, in a manner that parallels that of legitimate business ventures. This conclusion, it must be added, is based on examination of data that excludes groups exclusively engaged in drug trafficking.

These groups show a level of operational sophistication comparable to that of their parallels in the private sector. Thus, a group engaging very heavily in prostitution services, will utilize resources like other service businesses of similar size, using double entry bookkeeping, and computers to keep profiles of customer orders and needs, as well as tracking of accounts payables and receivables. At the highest levels, as illustrated by the *Salerno* cases<sup>1</sup> there are complex agreements governing the relationship among cooperating organizations, divisions of territories and functions, and both vertical and horizontal monopolies. Tax responsibilities are taken into account, as are issues of organizational security, personnel recruitment and management, and close attention to market share.

### The Centrality of White-Collar Crime

In our view the data gathered in this study confirm the importance of investigating and prosecuting for white-collar crime violations in proceeding against organized criminal groups. We arrive at this conclusion, notwithstanding the fact we selected our cases on a basis other than their representativeness, since we were seeking to inventory business-type activities or organized criminal groups, rather than to develop some profile or model to characterize them. As noted in the body of this report, our cases were divided into what we characterized as "active" and "inactive." These cases included all indictments and complaints filed over an approximate two-year period by prosecutive agencies dedicated to white-collar crime enforcement. We looked most closely at the former, and only collected the most superficial data on the latter, based on our judgment as to whether the pleadings indicated the presence of business-type activities. Where pleadings met these tests, those that were duplicative of others already in hand were relegated to our "inactive" list. With respect to both lists, we categorized them along the lines of the one most central criminal behavior charged. In our interviews of investigators and prosecutors we addressed their entire caseloads, and their general views of the operations of organized criminal groups, producing what we suggest is much stronger than a series of war stories or idiosyncratic impressions.

The body of embezzlement, fraud, breach of trust, and tax cases was truly impressive. Operations of both illegal and illegal businesses involved the maintenance of false records, the submission of false claims, collusion between customers and suppliers, commercial bribery, kickbacks, vertical and horizontal monopolies, and -- as might be expected, omnipresent tax violations.

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<sup>1</sup>NY-74; NY-517; NY-518.

One is struck by the extent to which investigations involved time-consuming examinations of masses of records, and analysis along traditional lines of white-collar criminal inquiry. These inquiries were conducted in conjunction with close attention to more common criminal violations, such as extortion, murder, and threats of physical and economic harm.

The shaping of remedies for organized criminal behavior, especially in the developing enforcement areas of civil RICO actions, confirms the implicit acceptance of the white-collar crime enforcement approach -- recourse to restraining orders and judicial supervision of trading groups and labor union operations.

Clearly, more emphasis should be given to the recruitment and training of investigators with business orientations and expertise in the tracking and analysis of financial and other business records, and the orientation of both investigators and prosecutors to better deal with white-collar crime concepts. There is already a high level of sophistication of such expertise in many federal agencies, and in a number of state agencies that must deal with organized crime. This expertise should be strengthened and expanded to include other federal, state, and local enforcement agencies.

### **Public Record Data**

This study was based on the premise that the public record would be a rich source of data on organized crime, particularly criminal indictments and civil complaints charging criminal behaviors. Having worked with this data for a period of time, it is clear that it is a valuable resource provided that it is a starting point rather than as an end in itself. We found that there were, for example, fewer "talking indictments," those in which the facts contained within the four corners of these documents told a coherent story, than we expected based on our preliminary examinations of such materials prior to the inception of the study. Yet these materials were a valuable springboard for personal interviews with investigators and prosecutors and, when time permitted, they were an entry way into most illuminating sources of information. The few instances in which we were able to examine appellate briefs and transcripts of closing arguments to juries (all public record information available to any researcher) provided special insights into how organized criminal groups operated as business enterprises. We have no doubt that if our focus had been different, similar benefits would have been forthcoming from such examinations.

Efforts should be made by researchers to identify specific organized crime cases that respond to their interests, and to embark on case studies that utilize trial transcripts, particularly motion papers and motion papers. Such inquiries could address specific cases, or groups of cases. Either course would be most helpful to our understanding of organized criminal group operations and behaviors.

### **Organized Crime Targets of Law Enforcement**

Based on our premise that business-type activities were to be found in most organized crime operations, and concerned about missing such activities because we did not cast a sufficiently broad net, we asked cooperating agencies for all of their indictments and civil complaints in a given period of time. We assumed the burden of culling from this mass of materials those that were relevant to our work. This had the double advantage of lessening the costs of cooperation for these agencies and providing at least some assurance

that we would not be missing business-type activities relevant to our effort. As a by-product of our work we therefore were able to observe the caseloads of the cooperating state and federal agencies that targeted organized crime.

In examining organized crime indictments and civil complaints brought over a period of approximately two years, one is struck by the considerable variety of groups targeted by law enforcement units. It was not always possible to determine the exact nature of the groups with which defendants were connected, though we were able to do so in significant part. The major categories that emerged from our examination, were:

- o cosa nostra
- o labor unions
- o local criminal syndicates, and
- o drug trafficking groups.

There were frequent overlaps, which blurred these distinctions. For example, in many instances labor union defendants were associated with cosa nostra or local criminal syndicates. In some instances there was not enough information to indicate cosa nostra involvement, and therefore we treated the defendants as parts of local criminal syndicates. In most instances it was clear that where only drug trafficking violations were alleged in indictments, the groups involved were exclusively in the business of marketing drugs and had little relationship to any other categories of criminal groups.

In many cases it was difficult to determine exactly why a particular case was in the bailiwick of law enforcement units dedicated to organized crime investigation and prosecution. This raises at least the possibility that such units, because of their special skills and expertise, are called upon to grapple with particular complex and difficult cases, which do not fall into more commonly accepted definitions of organized crime, such as local political corruption, or intensive albeit temporary and dangerous criminal combinations and ventures. We do not view this negatively. Utilization of these dedicated units for such purposes serves an important public and law enforcement purpose, and without doubt hones skills for application to more conventional organized crime targets.

### Narcotics Trafficking Groups

As noted in the body of this report, and in Appendix 2, the decision was made early in this research to concentrate on the business type activities of organized criminal groups other than those exclusively involved in drug trafficking. This decision, as we have noted, was not based on a judgment that such groups do not operate as business entities, subject to the same analytic approach we applied to other criminal groups. Rather, we did this because these groups operated in a manner markedly different from other organized crime, marketed their services differently, and rested more directly on violence than on the threat of violence -- which was the case with other criminal groups.

Of the 601 active and inactive cases in our case data base, 139 involved drug trafficking activities. A few of these were considered in this study because they were combined with other criminal activities in conglomerate organized criminal group operations. Based on our observations, we suggest that the business-type activities of

organized groups engaged solely in drug trafficking are a distinct and separate subject, worthy of special study along the lines undertaken in this effort.

### Gambling and Organized Crime

In our interviews with investigators and prosecutors there was a strong consensus, though there were some who disagreed, with the proposition that the gambling business was the central core of organized crime. It was said to provide a steady source of revenue, employment for organized crime members and associates, and capital for other organized crime legal and illegal business ventures. The importance attached to gambling was in distinct contrast with the violations charged in both the active and inactive cases in our data base. In the 601 cases in our data base only 31 contained gambling charges, though gambling elements were certainly embedded within other violations such as tax violations. Also, while there may have been gambling activities charged in conspiracy or RICO counts, which would have surfaced in our findings, where the cases were among our 165 active cases that we examined it greater depth, in these cases only 29 showed any evidence that gambling activities figured in the charges in any manner whatsoever.

Faced with this anomaly we asked each of our interviewees why, if they considered gambling so significant, it did not bulk more significantly in their cases. The answers were remarkably uniform. If these cases were pursued the likelihood of getting significant sentences or remedies is relatively low, it is difficult to develop broad comprehensive cases in this field, and the public (including juries and courts) are uncertain about how seriously to treat such "victimless" crimes. There is a distinct lack of public distaste and hostility to the practitioners of these activities, unless they can be combined with other, more "serious" offenses. The potential of such cases is even less where organized criminal groups have shifted from direct involvement to the "street tax" approach, allowing other groups to ply the gambling trade but levying a tax on their operations.

This problem is one that should be of concern to policy makers and analysts in the area of organized crime law enforcement, and consideration should be given to the options that may be available to develop such cases and to present them in a manner that evokes greater public concern. There may be no way to do so, but such options should be regularly reviewed.

**Appendices**



APPENDIX 1						
BTA Project Data Base						
File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
AZ-561	US v. Jen & Ting	DDAZ				XXX
AZ-57	AZ v. Johnson			AZ	XXX	
AZ-58	AZ v. Amador			AZ	XXX	
AZ-59	AZ v. Richards			AZ		XXX
AZ-60	AZ v. Colacurcio			AZ	XXX	
AZ-61	AZ v. Ray & Terry			AZ	XXX	
AZ-62	AZ v. Ray & Dempsey			AZ	XXX	
AZ-63	AZ v. Dattilo			AZ		XXX
AZ-64	AZ v. Tocco			AZ	XXX	
AZ-65	In re All Amer. Distr.			AZ		XXX
CA-15	CA v. Kalav			CA		XXX
CA-16	CA v. Phelps			CA		XXX
CA-17	CA v. Fritz			CA		XXX
CA-18	CA v. Owens			CA		XXX
CA-187	US v. Schultz	SDCA			XXX	
CA-20	CA v. Montellano			CA		XXX
CA-21	CA v. Guglucci			CA		XXX
CA-22	CA v. Robinson			CA		XXX
CA-24	CA v. Ihnat			CA		XXX
CA-25	CA v. Dodson			CA		XXX
CA-27	CA v. Comeau			CA		XXX
CA-28	CA v. Masters			CA		XXX
CA-29	CA v. Mittleider			CA		XXX
CA-30	CA v. White			CA		XXX
CA-32	CA v. Veltri			CA		XXX
CA-33	CA v. Sacco			CA		XXX
CA-34	CA v. Naruko			CA		XXX
CA-35	US v. Browning	CDCA	LA			XXX
CA-36	US v. Baker	CDCA	LA			XXX
CA-37	US v. Colucci	NDCA	SF			XXX
CA-38	US v. Caldwell	NDCA	SF			XXX
CA-39	US v. Lessard	CDCA	LA			XXX
CA-40	US v. Manganiello	CDCA	LA			XXX
CA-41	US v. Poulin	NDCA	SF			XXX
CA-42	US v. Owen	CDCA	LA			XXX
CA-43	US v. Serrano	NDCA	SF			XXX
CA-44	US v. Sohm	CDCA	LA			XXX
CA-45	US v. Spears	CDCA	LA			XXX
CA-46	US v. Villasenor	NDCA	SF			XXX
CA-47	US v. Doyle	NDCA	SF			XXX
CA-48	US v. Jenson	CDCA	LA			XXX
CA-49	US v. Stevenson	NDCA	SF		XXX	
CA-556	US v. Kreiner	CDCA	LA			XXX
CA-557	US v. Masetta & Gelfuso	CDCA	LA			XXX
CA-558	US v. Micheli	CDCA	LA			XXX
CA-559	US v. Rizzitello	CDCA	LA			XXX
CA-560	US v. Gottesman	CDCA	LA		XXX	
CA-562	US v. Milano	CDCA	LA		XXX	

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
CA-671	US v. Gall & Gallo	CDCA	LA			
CA-672	US v. Angelo	CDCA	LA		XXX	
CA-673	US v. Deutch	CDCA	LA			XXX
CA-674	US v. Eccles	CDCA	LA			XXX
CA-675	US v. Daly	CDCA	LA		XXX	
CA-676	US v. Spalliero	CDCA	LA		XXX	
CA-677	US v. Pisello	CDCA	LA			XXX
CA-678	US v. Spillone	CDCA	LA		XXX	
CA-679	US v. Catain & Sarubbe	CDCA	LA			XXX
CA-680	US v. Catain	CDCA	LA		XXX	
CA-681	US v. Hamm & Hamm	CDCA	LA			XXX
CA-682	US v. Rizzitello	CDCA	LA			XXX
CA-683	US v. Brandon	CDCA	LA			XXX
CA-684	US v. Mondavano	CDCA	LA			XXX
CA-704	CA v. Arrelle			CA		XXX
CA-705	CA v. Montoya			CA		XXX
CA-706	US v. Montoya & Baxter	CDCA	LA			XXX
CA-707	CA v. Armstrong & Pucci			CA		XXX
CA-708	US v. Rowe & Sheehan	NDCA	SF			XXX
CA-709	US v. Sheehan	NDCA	SF			XXX
CA-711	CA v. Lucci			CA		XXX
CA-712	US v. Plesinski & Vinograd	CDCA	LA			XXX
CN-465	US v. Gessler	DDCN	BOST			XXX
CN-466	US v. American National Bank	DDCN	BOST			XXX
CN-467	US v. Champagne	DDCN	BOST			XXX
CN-468	US v. DiBiase	DDCN	BOST			XXX
CN-469	US v. Pattera	DDCN	BOST			XXX
CN-470	US v. Pattera	DDCN	BOST			XXX
CN-471	US v. Scheibel	DDCN	BOST			XXX
CN-472	US v. Vece	DDCN	BOST			XXX
CN-473	US v. Cavuoti & Cavuoti	DDCN	BOST			XXX
CN-474	US v. Bonitati	DDCN	BOST			XXX
CN-476	US v. Zimmitti	DDCN	BOST			XXX
CN-477	US v. Calash	DDCN	BOST			XXX
CN-478	US v. Gambardella	DDCN	BOST			XXX
CN-479	US v. Girolomoni	DDCN	BOST			XXX
CN-480	US v. Rossetti	DDCN	BOST			XXX
CN-482	US v. Roberto	DDCN	BOST			XXX
CN-483	US v. Ravalese	DDCN	BOST			XXX
CN-484	US v. Guarnaccia	DDCN	BOST			XXX
CN-485	US v. Susca	DDCN	BOST			XXX
CN-486	US v. Lamontagne	DDCN	BOST			XXX
CN-487	US v. Salvatore	DDCN	BOST			XXX
CN-488	US v. Altieri	DDCN	BOST			XXX
CN-489	US v. Mario	DDCN	BOST			XXX
CN-490	US v. Zimmitti & Strano	DDCN	BOST			XXX
CN-491	US v. Purciello	DDCN	BOST			XXX
CN-492	US v. Vitale	DDCN	BOST		XXX	
CN-493	US v. DeBrizzi	DDCN	BOST			XXX
CN-494	US v. Rossetti	DDCN	BOST		XXX	
CN-495	US v. Housatonic Bank	DDCN	BOST			XXX
CN-496	US v. Menillo	DDCN	BOST			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
CN-497	US v. Digirolamo	DDCN	BOST			XXX
CN-500	US v. Cordone	DDCN	BOST			XXX
CN-505	US v. Turiano	DDCN	BOST			XXX
CN-514	US v. Calash	DDCN	BOST			XXX
CN-515	US v. Rizzieri	DDCN	BOST			XXX
CN-516	US v. Myers	DDCN	BOST			XXX
DC-53	US v. Brown	DDDC			XXX	
FL-424	US v. Mercer	SDFL	MIAMI		XXX	
FL-425	US v. Recarey	SDFL	MIAMI		XXX	
FL-426	US v. Lamattina	SDFL	MIAMI			XXX
FL-427	US v. Alessi	SDFL	MIAMI			XXX
FL-428	US v. Recarey	SDFL	MIAMI		XXX	
FL-429	US v. Indelicato	SDFL	MIAMI		XXX	
FL-430	US v. Cocchiario	SDFL	MIAMI		XXX	
FL-431	US v. Armone	SDFL	MIAMI		XXX	
FL-432	US v. Donofrio	MDFL	MIAMI			XXX
FL-433	US v. Ciccarelli	MDFL	MIAMI		XXX	
FL-434	US v. Jacobs	MDFL	MIAMI			XXX
FL-435	US v. Manna	SDFL	MIAMI			XXX
FL-436	US v. Williams	SDFL	MIAMI			XXX
FL-437	US v. Rapp	SDFL	MIAMI		XXX	
FL-438	US v. Spatuzzi & Charney	SDFL	MIAMI			XXX
FL-439	US v. Speyer	SDFL	MIAMI		XXX	
FL-440	US v. Lamberti	SDFL	MIAMI			XXX
FL-441	US v. Miano	SDFL	MIAMI			XXX
FL-442	US v. Militano & Nathan	SDFL	MIAMI			XXX
FL-443	US v. Kelleher	SDFL	MIAMI			XXX
FL-444	US v. Keen	SDFL	MIAMI			XXX
FL-445	US v. Guarnieri	SDFL	MIAMI			XXX
FL-446	US v. Jacobs	SDFL	MIAMI			XXX
FL-447	US v. Jacobs	SDFL	MIAMI			XXX
FL-448	US v. Lach	SDFL	MIAMI			XXX
FL-449	US v. Weinraub & Garavaglia	SDFL	MIAMI			XXX
FL-450	US v. Winfield	SDFL	MIAMI			XXX
FL-451	US v. Goode	SDFL	MIAMI			XXX
FL-452	US v. Greenberg	SDFL	MIAMI			XXX
FL-453	US v. Greenberg	SDFL	MIAMI			XXX
FL-454	US v. Guarnieri	SDFL	MIAMI			XXX
FL-455	US v. Gandolfo	SDFL	MIAMI			XXX
FL-456	US v. Garner	SDFL	MIAMI			XXX
FL-457	US v. Gissendanner	SDFL	MIAMI			XXX
FL-458	US v. Dunham	SDFL	MIAMI			XXX
FL-459	US v. De Noia	SDFL	MIAMI			XXX
FL-460	US v. De Crescito	SDFL	MIAMI			XXX
FL-461	US v. Cusolito	SDFL	MIAMI			XXX
FL-462	US v. Covelto	SDFL	MIAMI			XXX
FL-463	US v. Biller	SDFL	MIAMI			XXX
FL-464	US v. Berrin	SDFL	MIAMI			XXX
FL-570	US v. Jacoby	SDFL	MIAMI			XXX
FL-66	US v. Ochoa-Vasquez	SDFL	MIAMI			XXX
FL-75	US v. Lawson	SDFL	MIAMI			XXX
FL-76	US v. Flaim	SDFL	MIAMI			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
FL-77	US v. Cardillo	SDFL	MIAMI		XXX	
FL-78	US v. Accardo	SDFL	MIAMI		XXX	
IL-306	US v. Bastone	NDIL	CHIC		XXX	
IL-307	US v. Booth & Cavallini	NDIL	CHIC			XXX
IL-308	US v. Brecka & Rolnik	NDIL	CHIC		XXX	
IL-309	US v. Caliendo	NDIL	CHIC		XXX	
IL-310	US v. Cardamon	NDIL	CHIC		XXX	
IL-311	US v. Covello	NDIL	CHIC		XXX	
IL-312	US v. Curry & Curry	NDIL	CHIC			XXX
IL-313	US v. Ericksen	NDIL	CHIC			XXX
IL-314	US v. Floyd & Floyd	NDIL	CHIC			XXX
IL-315	US v. Floyd	NDIL	CHIC			XXX
IL-316	US v. Frasch	NDIL	CHIC			XXX
IL-317	US v. Galante	NDIL	CHIC			XXX
IL-318	US v. Kahn	NDIL	CHIC		XXX	
IL-319	US v. Kaye & Woodward	NDIL	CHIC		XXX	
IL-320	US v. LaRocco	NDIL	CHIC			XXX
IL-321	US v. Lutovsky	NDIL	CHIC			XXX
IL-322	US v. Monaco	NDIL	CHIC		XXX	
IL-323	US v. Mader	NDIL	CHIC			XXX
IL-324	US v. Mulberg	NDIL	CHIC			XXX
IL-325	US v. Panczko & Karalis	NDIL	CHIC			XXX
IL-326	US v. Panno	NDIL	CHIC		XXX	
IL-327	US v. Pascucci	NDIL	CHIC		XXX	
IL-328	US v. Pellegrino	NDIL	CHIC			XXX
IL-329	US v. Posner & Muskovsky	NDIL	CHIC		XXX	
IL-330	US v. Powell	NDIL	CHIC			XXX
IL-331	US v. Pullia & Johnson	NDIL	CHIC			XXX
IL-332	US v. Ringer	NDIL	CHIC			XXX
IL-333	US v. Russo	NDIL	CHIC		XXX	
IL-334	US v. Savides	NDIL	CHIC		XXX	
IL-335	US v. Shultz	NDIL	CHIC		XXX	
IL-336	US v. Smith	NDIL	CHIC			XXX
IL-337	US v. Spilotro & Spilotro	NDIL	CHIC		XXX	
IL-338	US v. Spilotro	NDIL	CHIC		XXX	
IL-339	US v. Stabile & Hammond	NDIL	CHIC			XXX
IL-340	US v. Venturella	NDIL	CHIC			XXX
IL-395	US v. Harting	NDIL	CHIC			XXX
IL-616	US v. Lawrence	NDIL	CHIC			XXX
IL-617	US v. Leone	NDIL	CHIC			XXX
IL-618	US v. Merola & Merola	NDIL	CHIC			XXX
IL-621	US v. Scarpelli	NDIL	CHIC			XXX
KS-369	US v. Bowie & Cartaya	DDKS	KC			XXX
KS-370	US v. Eynden	DDKS	KC			XXX
KS-371	US v. Montoya	DDKS	KC			XXX
KS-372	US v. Mosko	DDCO	KC		XXX	
KS-373	US v. Tutera	WDMO	KC			XXX
KS-374	US v. Russo & Russo	DDKS	KC			XXX
KS-375	US v. McDonald	WDMO	KC			XXX
KS-376	US v. Sollome	WDMO	KC			XXX
KS-378	US v. Fannemel	DDKS	KC		XXX	
KS-379	US v. McFarland & Stoner	WDMO	KC			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
KS-381	US v. Wells	WDMO	KC			XXX
KS-382	US v. DeMarco	WDMO	KC			XXX
KS-383	US v. Mammolito & Giacomo	WDMO	KC			XXX
KS-384	US v. McFarland	DDKS	KC			XXX
KS-386	US v. Brown	DDKS	KC		XXX	
KS-387	US v. Einstein	DDKS	KC		XXX	
KS-388	US v. Renda	DDKS	KC		XXX	
KS-389	US v. Chesson	DDKS	KC			XXX
KS-390	US v. Burkhart	DDKS	KC			XXX
KS-391	US v. Brenesell	DDKS	KC			XXX
KS-392	US v. Lochiano	WDMO	KC			XXX
KS-393	US v. Giacomo	WDMO	KC			XXX
LA-132	US v. Kollin	EDLA	NEWORL		XXX	
LA-257	US v. Mitchell	EDLA	NEWORL			XXX
LA-258	US v. Evans	EDLA	NEWORL			XXX
LA-259	US v. LeBlanc	EDLA	NEWORL			XXX
LA-260	US v. Deerman	EDLA	NEWORL			XXX
LA-261	US v. Alombro	EDLA	NEWORL			XXX
LA-262	US v. Rodriguez	EDLA	NEWORL			XXX
LA-263	US v. Ochoa-Vasquez	MDLA	NEWORL			XXX
LA-264	US v. Soto	EDLA	NEWORL			XXX
LA-265a	US v. Springer	EDLA	NEWORL			XXX
LA-267	US v. Friloux	EDLA	NEWORL			XXX
LA-268	US v. Anselmo & Cacamo	EDLA	NEWORL			XXX
LA-269	US v. Uribe-Munera	MDLA	NEWORL			XXX
LA-270	US v. Baudin	EDLA	NEWORL			XXX
LA-271	US v. Baudin & Burns	EDLA	NEWORL			XXX
LA-273	US v. Pou	EDLA	NEWORL			XXX
LA-274	US v. Tregle	MDLA	NEWORL			XXX
LA-275	US v. Porter	EDLA	NEWORL			XXX
LA-276	US v. Bruno	EDLA	NEWORL			XXX
LA-277	US v. Gonzalez	SDTX	NEWORL			XXX
LA-278	US v. Zeyala	SDTX	NEWORL			XXX
LA-279	US v. Watkins	MDLA	NEWORL			XXX
LA-280	US v. Everett	EDLA	NEWORL			XXX
LA-281	US v. Henry	EDLA	NEWORL			XXX
LA-282	US v. Giamelluca	EDLA	NEWORL			XXX
LA-283	US v. Payne	EDLA	NEWORL			XXX
LA-284	US v. Rosen	EDLA	NEWORL			XXX
LA-285	US v. Giuffria	EDLA	NEWORL			XXX
LA-287	US v. Dunams	EDLA	NEWORL		XXX	
LA-288	US v. Carter	EDLA	NEWORL		XXX	
LA-289	US v. Marshall	EDLA	NEWORL			XXX
LA-290	US v. Jordan	EDLA	NEWORL			XXX
LA-291	US v. Rea	EDLA	NEWORL			XXX
LA-292	US v. DuPont	EDLA	NEWORL			XXX
LA-293	US v. Heirsch	EDLA	NEWORL			XXX
LA-294	US v. Kinney	EDLA	NEWORL			XXX
LA-295	US v. Natalizzo	EDLA	NEWORL			XXX
LA-296	US v. Leitz	EDLA	NEWORL			XXX
LA-297	US v. Varca	EDLA	NEWORL			XXX
LA-299	US v. Rosenthal	EDLA	NEWORL			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
LA-300	US v. Wyman	EDLA	NEWORL			XXX
LA-301	US v. Payne	EDLA	NEWORL			XXX
LA-302	US v. Ladner	EDLA	NEWORL			XXX
LA-303	US v. Kollin & Ladner	EDLA	NEWORL			XXX
LA-304	US v. DiGiovanni	EDLA	NEWORL			XXX
LA-346	US v. Mince & Marshall	EDLA	NEWORL			XXX
MA-348	US v. Furer	DDMA	BOST			XXX
MA-349	US v. McNulty	DDMA	BOST		XXX	
MA-350	US v. Oreto	DDMA	BOST		XXX	
MA-351	US v. Nat. Bank Fairhaven	DDMA	BOST			XXX
MA-352	US v. McDougall	DDMA	BOST			XXX
MA-353	US v. Viera	DDMA	BOST			XXX
MA-354	US v. Balliro	DDMA	BOST			XXX
MA-355	US v. Angiulo	DDMA	BOST			XXX
MA-356	US v. DeCristoforo	DDMA	BOST			XXX
MA-357	US v. Zannino	DDMA	BOST			XXX
MA-358	US v. Petrino	DDMA	BOST			XXX
MA-359	US v. Yerardi	DDMA	BOST			XXX
MA-360	US v. Ballard	DDMA	BOST			XXX
MA-361	US v. Naimovich	DDMA	BOST			XXX
MA-362	US v. Lourenco	DDMA	BOST			XXX
MA-363	US v. Pino	DDMA	BOST			XXX
MA-364	US v. Rosato	DDMA	BOST			XXX
MA-365	US v. Leary	DDMA	BOST		XXX	
MA-52	US v. Angiulo	DDMA	BOST		XXX	
MA-56	US v. Boylan	DDMA	BOST		XXX	
MA-648	US v. Devin	DDMA	BOST		XXX	
MA-649	US v. David	DDMA	BOST			XXX
MA-650	US v. Parrish	DDMA	BOST			XXX
MA-651	US v. Santaniello	DDMA	BOST		XXX	
MI-86	US v. Runnels	EDMI	DET			XXX
MI-87	US v. Shapiro	EDMI	DET			XXX
MI-88	US v. Buonbrisco	EDMI	DET			XXX
MI-89	US v. Karalla	EDMI	DET			XXX
MI-90	US v. Schultz	EDMI	DET			XXX
MI-91	US v. Giacalone	EDMI	DET		XXX	
MI-92	US v. Djokovic	EDMI	DET			XXX
MI-93	US v. Djokovic	EDMI	DET			XXX
MI-94	US v. Leggio	EDMI	DET			XXX
MI-95	US v. Biondo	EDMI	DET			XXX
MI-96	US v. Fenkell	EDMI	DET			XXX
MI-97	US v. Coleman	EDMI	DET			XXX
MI-98	US v. LaPuma	EDMI	DET			XXX
MI-99	US v. Leggio	EDMI	DET			XXX
MS-305	US v. Evans & Evans	SDMS	NEWORL			XXX
NJ-1	NJ v. Garafola	DDNJ	NEWARK		XXX	
NJ-188	US v. Maldanis	DDNJ	NEWARK		XXX	
NJ-189	US v. Curreri	DDNJ	NEWARK			XXX
NJ-190	US v. Digilio	DDNJ	NEWARK		XXX	
NJ-191	US v. Bavosa	DDNJ	NEWARK			XXX
NJ-192	US v. Dinorscio	DDNJ	NEWARK			XXX
NJ-193	US v. Friedland	DDNJ	NEWARK		XXX	

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
NJ-194	US v. Mack	DDNJ	NEWARK		XXX	
NJ-195	US v. Hershman	DDNJ	NEWARK			XXX
NJ-196	US v. Canuso	DDNJ	NEWARK		XXX	
NJ-2	NJ v. Gerardo			NJ	XXX	
NJ-251	US v. Jason Trucking	DDNJ	NEWARK		XXX	
NJ-3	NJ v. Scarfo			NJ	XXX	
NJ-4	NJ v. Kuklinski	DDNJ	NEWARK			XXX
NJ-567	US v. Parness	DDNJ	NEWARK		XXX	
NJ-568	US v. Walsh	DDNJ	NEWARK		XXX	
NJ-588	US v. Viggiani	DDNJ	NEWARK		XXX	
NJ-589	US v. Manna	DDNJ	NEWARK		XXX	
NJ-6	NJ v. Boiardo			NJ	XXX	
NJ-652	US v. Riso	DDNJ	NEWARK			XXX
NJ-653	US v. Sgandurra	DDNJ	NEWARK			XXX
NJ-654	US v. Rodgers	DDNJ	NEWARK			XXX
NJ-655	US v. Mature	DDNJ	NEWARK			XXX
NJ-656	US v. LaTorre	DDNJ	NEWARK			XXX
NJ-657	US v. Calabria	DDNJ	NEWARK			XXX
NJ-658	US v. Zucconi	DDNJ	NEWARK			XXX
NJ-659	US v. Volpe	DDNJ	NEWARK			XXX
NJ-660	US v. Venella	DDNJ	NEWARK			XXX
NJ-661	US v. LoCantore	DDNJ	NEWARK			XXX
NJ-662	US v. Megara	DDNJ	NEWARK			XXX
NJ-663	US v. LaTorre	DDNJ	NEWARK			XXX
NJ-664	US v. Ferrara, Jr.	DDNJ	NEWARK			XXX
NJ-665	US v. Ferrara, Sr.	DDNJ	NEWARK			XXX
NJ-666	US v. MacIntosh	DDNJ	NEWARK			XXX
NJ-667	US v. DeMarco	DDNJ	NEWARK			XXX
NJ-669	US v. Held	DDNJ	NEWARK			XXX
NJ-670	US v. Friedman	DDNJ	NEWARK			XXX
NJ-685	US v. Meogrossi	DDNJ	NEWARK			XXX
NJ-686	NJ v. Scarfo			NJ	XXX	
NM-572	NM v. Payne			NM		XXX
NM-573	NM v. Shinn			NM		XXX
NM-574	NM v. Johnston & Bunker			NM		XXX
NM-575	NM v. Mason			NM		XXX
NM-576	NM v. Smith			NM		XXX
NM-577	NM v. Schaal			NM		XXX
NM-578	NM v. Lundberg			NM		XXX
NM-579	NM v. Walker			NM		XXX
NM-580	NM v. Deutsch			NM		XXX
NM-581	NM v. Ross & Heagy			NM		XXX
NM-583	NM v. Cowart & Chappell			NM		XXX
NM-584	NM v. Barbara			NM		XXX
NM-585	NM v. Taylor			NM		XXX
NM-587	NM v. CRW Development			NM		XXX
NV-395	US v. Greger	DDNV	VEGAS			XXX
NV-396	US v. Bliss	DDNV	VEGAS			XXX
NV-397	US v. May	DDNV	VEGAS			XXX
NV-398	US v. Trans-Sterling	DDNV	VEGAS		XXX	
NV-399	US v. Marchini	DDNV	VEGAS			XXX
NV-400	US v. Ayoub	DDNV	VEGAS			XXX

File #	Case Name	US Att	Strike	State	Active	Inactive
		District	Force	Att. Gen.		
NV-401	US v. Porray	DDNV	VEGAS		XXX	
NV-402	US v. Corsano & Caravello	DDNV	VEGAS			XXX
NV-403	US v. Kilroy	DDNV	VEGAS		XXX	
NV-404	US v. Blitzstein & Blitzstein	DDNV	VEGAS			XXX
NV-405	US v. Blitzstein & Blitzstein	DDNV	VEGAS			XXX
NV-406	US v. Montana	DDNV	VEGAS			XXX
NV-407	US v. Blitzstein	DDNV	VEGAS			XXX
NV-408	US v. Schmoutey	DDNV	VEGAS		XXX	
NV-409	US v. Schmoutey	DDNV	VEGAS			XXX
NV-410	US v. St. Laurent	DDNV	VEGAS			XXX
NV-411	US v. Spinale	DDNV	VEGAS			XXX
NV-412	US v. Spinale & Spinale	DDNV	VEGAS			XXX
NV-413	US v. Blitzstein	DDNV	VEGAS			XXX
NV-414	US v. Candelaria & Carlson	DDNV	VEGAS			XXX
NV-415	US v. Short	DDNV	VEGAS			XXX
NV-416	US v. First Inter. Mortgage	DDNV	VEGAS		XXX	
NV-417	US v. Krug	DDNV	VEGAS		XXX	
NV-418	US v. Krug	DDNV	VEGAS			XXX
NV-419	US v. Remund & Hafer	DDNV	VEGAS		XXX	
NV-420	US v. Kimball	DDNV	VEGAS		XXX	
NV-421	US v. Spinale & Spinale	DDNV	VEGAS			XXX
NV-422	US v. Oden	DDNV	VEGAS		XXX	
NV-423	US v. O'Rayeh & Noble	DDNV	VEGAS			XXX
NV-687	US v. Wilson & Watenstein	DDNV	VEGAS			XXX
NY-10	NY v. Riviello			NY	XXX	
NY-100	US v. Wentam Corp.	NDNY	BUFF			XXX
NY-101	US v. Cordello	WDNY	BUFF			XXX
NY-102	US v. Dewan	WDNY	BUFF			XXX
NY-103	US v. Melchiorre	WDNY	BUFF			XXX
NY-104	US v. Stagnitta	WDNY	BUFF		XXX	
NY-105	US v. Fumerelle	WDNY	BUFF			XXX
NY-106	US v. Gangemi	WDNY	BUFF			XXX
NY-107	US v. Amico & Hernandez	WDNY	BUFF			XXX
NY-108	US v. Amico	WDNY	BUFF		XXX	
NY-109	US v. Sturniolo	WDNY	BUFF			XXX
NY-11	NY v. Abello			NY		XXX
NY-110	US v. Spaulding	NDNY	BUFF			XXX
NY-111	US v. Bersani	NDNY	BUFF			XXX
NY-112	US v. Caruso	NDNY	BUFF			XXX
NY-113	US v. Lemonides	NDNY	BUFF			XXX
NY-114	US v. Milewitz & Veit	NDNY	BUFF			XXX
NY-115	US v. Milewitz & Veit	NDNY	BUFF			XXX
NY-116	US v. Ciricillo	NDNY	BUFF			XXX
NY-117	US v. Stathis	NDNY	BUFF			XXX
NY-118	US v. Alexander & Bajus	NDNY	BUFF			XXX
NY-119	US v. Indovino & Pelitera	WDNY	BUFF			
NY-12	NY v. Chilli			NY	XXX	
NY-120	US v. Margiotta	WDNY	BUFF			XXX
NY-121	US v. Taddeo & Mungillo	WDNY	BUFF			XXX
NY-122	US v. DiBattisto	WDNY	BUFF			XXX
NY-123	US v. Reitz	NDNY	BUFF			XXX
NY-124	US v. Palmiere	WDNY	BUFF			XXX



File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
NY-125	US v. Pike and Son, Inc.	WDNY	BUFF		XXX	
NY-126	US v. Kiszewski	WDNY	BUFF			XXX
NY-127	US v. Robilotto	NDNY	BUFF		XXX	
NY-129	US v. Martino	WDNY	BUFF			XXX
NY-13	NY v. Bruno			NY	XXX	
NY-130	US v. Hall	NDNY	BUFF			XXX
NY-131	US v. Mauro & Okun	WDNY	BUFF		XXX	
NY-14	NY v. Privateer			NY	XXX	
NY-252	US v. Woomer	WDNY	BUFF		XXX	
NY-253	US v. Cuda	NDNY	BUFF		XXX	
NY-366	US v. Santoro	EDNY	BKLYN		XXX	
NY-367	US v. DeSantis	EDNY	BKLYN			XXX
NY-368	US v. Cervone	EDNY	BKLYN		XXX	
NY-517	US v. Salerno	SDNY			XXX	
NY-518	US v. Salerno	SDNY			XXX	
NY-569	US v. Russo	WDNY	BUFF			XXX
NY-571	US v. Massino	SDNY				XXX
NY-603	US v. Mauro	NDNY	BUFF		XXX	
NY-604	US v. Schiano	NDNY	BUFF		XXX	
NY-605	US v. Hafner	NDNY	BUFF		XXX	
NY-606	US v. Blair	WDNY	BUFF			XXX
NY-607	US v. Sfeir	NDNY	BUFF			XXX
NY-608	US v. Turi	NDNY	BUFF			XXX
NY-609	US v. Inserra	NDNY	BUFF		XXX	
NY-610	US v. Kiszewski	WDNY	BUFF			XXX
NY-611	US v. D'Auria	WDNY	BUFF			XXX
NY-612	US v. Catanzaro	WDNY	BUFF		XXX	
NY-613	US v. Rosato	WDNY	BUFF		XXX	
NY-614	US v. Scanio	WDNY	BUFF			XXX
NY-647	US v. Regan	SDNY			XXX	
NY-688	US v. Teamsters	SDNY			XXX	
NY-7	US v. Bonanno	EDNY	BKLYN		XXX	
NY-73	US v. Badalamenti	SDNY				XXX
NY-74	US v. Salerno	SDNY			XXX	
NY-79	US v. Chang An-Lo	SDNY			XXX	
NY-8	NY v. Cassadei			NY	XXX	
NY-80	US v. Ianniello	SDNY			XXX	
NY-81	US v. Yin Poy Louie	SDNY				XXX
NY-82	US v. Persico	SDNY			XXX	
NY-83	US v. Rotondo	SDNY			XXX	
NY-84	US v. Biaggi	SDNY				
NY-85	US v. Castellano	SDNY			XXX	
NY-9	NY v. Ronning			NY		XXX
OH-133	US v. Sturman	NDOH	CLEVE		XXX	
OH-134	US v. Mutter	NDOH	CLEVE			XXX
OH-135	US v. Absher	NDOH	CLEVE		XXX	
OH-136	US v. Lonardo	NDOH	CLEVE			XXX
OH-137	US v. Chappel	NDOH	CLEVE			XXX
OH-138	US v. Zagaria	NDOH	CLEVE		XXX	
OH-139	US v. Bartkus	NDOH	CLEVE		XXX	
OH-140	US v. Morabith	NDOH	CLEVE		XXX	
OH-141	US v. Kuzniak	NDOH	CLEVE			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
OH-142	US v. Sanzo	NDOH	CLEVE			XXX
OH-143	US v. Haueter	NDOH	CLEVE		XXX	
OH-144	US v. Ribich	NDOH	CLEVE			XXX
OH-145	US v. Marino	NDOH	CLEVE		XXX	
OH-146	US v. Seltzer	NDOH	CLEVE		XXX	
OH-147	US v. Sugarman	NDOH	CLEVE		XXX	
OH-148	US v. Altshuler	NDOH	CLEVE			XXX
OH-149	US v. Stella	NDOH	CLEVE		XXX	
OH-150	US v. Sdono	NDOH	CLEVE			XXX
OH-151	US v. Walsh	NDOH	CLEVE			XXX
OH-152	US v. Rotunno	NDOH	CLEVE			XXX
OH-153	US v. Beal	NDOH	CLEVE			XXX
OH-154	US v. Caronite	NDOH	CLEVE			XXX
OH-155	US v. Eckman	NDOH	CLEVE			XXX
OH-156	US v. Felger	NDOH	CLEVE		XXX	
OH-157	US v. Toney	NDOH	CLEVE		XXX	
OH-158	US v. Trunzo	NDOH	CLEVE		XXX	
OH-159	US v. Faragone	NDOH	CLEVE			XXX
OH-160	US v. Braverman	NDOH	CLEVE		XXX	
OH-161	US v. Constantine	NDOH	CLEVE		XXX	
OH-162	US v. Scaffidi	NDOH	CLEVE			XXX
OH-163	US v. Felice	NDOH	CLEVE			XXX
OH-164	US v. Cascarelli	NDOH	CLEVE			XXX
OH-165	US v. Traficant	NDOH	CLEVE			XXX
OH-166	US v. Harley	NDOH	CLEVE			XXX
OH-167	US v. Biondillo	NDOH	CLEVE			XXX
OH-169	US v. Sinito	NDOH	CLEVE		XXX	
OH-170	US v. Alonzo	NDOH	CLEVE			XXX
OH-171	US v. Soblotne	NDOH	CLEVE			XXX
OH-172	US v. Hook	NDOH	CLEVE			XXX
OH-173	US v. Goelman	NDOH	CLEVE			XXX
OH-174	US v. Naples	NDOH	CLEVE			XXX
OH-175	US v. Carabbia	NDOH	CLEVE			XXX
OH-176	US v. Bauman	NDOH	CLEVE			XXX
OH-177	US v. Kerr	NDOH	CLEVE			XXX
OH-178	US v. Friedman	NDOH	CLEVE			XXX
OH-179	US v. Montana	NDOH	CLEVE			XXX
OH-180	US v. Bitsko	NDOH	CLEVE			XXX
OH-181	US v. Wortman	NDOH	CLEVE			XXX
OH-182	US v. Ferrara	NDOH	CLEVE			XXX
OH-183	US v. Weltchek	NDOH	CLEVE			XXX
OH-184	US v. Scott	NDOH	CLEVE		XXX	
OH-185	US v. Diorio	NDOH	CLEVE			XXX
OH-186	US v. Gallo	NDOH	CLEVE		XXX	
OH-197	US v. Parise	NDOH	CLEVE			XXX
OH-198	US v. Local No. 436	NDOH	CLEVE		XXX	
OH-199	US v. Nardi	NDOH	CLEVE		XXX	
OH-200	US v. Reilly	NDOH	CLEVE		XXX	
OH-201	US v. Bishop	NDOH	CLEVE			XXX
OH-202	US v. Harrison	NDOH	CLEVE			XXX
OH-203	US v. LAPS Industries	NDOH	CLEVE			XXX
OH-204	US v. West	NDOH	CLEVE			XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
OH-205	US v. Ackerman	NDOH	CLEVE			XXX
OH-206	US v. Depizzo	NDOH	CLEVE			XXX
OH-207	US v. Olsafsky	NDOH	CLEVE			XXX
OH-208	US v. Short	NDOH	CLEVE			XXX
OH-209	US v. Massey	NDOH	CLEVE			XXX
OH-210	US v. Pandos	NDOH	CLEVE			XXX
OH-211	US v. Tullius	NDOH	CLEVE			XXX
OH-212	US v. Satterwhite	NDOH	CLEVE			XXX
OH-213	US v. Messitt	NDOH	CLEVE			XXX
OH-214	US v. Booth	NDOH	CLEVE			XXX
OH-215	US v. Memastes	NDOH	CLEVE			XXX
OH-216	US v. Constantine	NDOH	CLEVE		XXX	
OH-217	US v. Syracuse	NDOH	CLEVE		XXX	
OH-218	US v. Mullins	NDOH	CLEVE			XXX
OH-219	US v. Harley	NDOH	CLEVE			XXX
OH-221	US v. Regalo	NDOH	CLEVE		XXX	
OH-222	US v. Riedel	NDOH	CLEVE			XXX
OH-223	US v. Van Newhouse	NDOH	CLEVE			XXX
OH-224	US v. Egyed	NDOH	CLEVE			XXX
OH-225	US v. Egyed	NDOH	CLEVE			XXX
OH-226	US v. Nardi	NDOH	CLEVE		XXX	
OH-227	US v. Shaffo	NDOH	CLEVE			XXX
OH-228	US v. Eschliman	NDOH	CLEVE		XXX	
OH-229	US v. Dileno	NDOH	CLEVE		XXX	
OH-230	US v. Gum	NDOH	CLEVE			XXX
OH-231	US v. Graham	NDOH	CLEVE		XXX	
OH-232	US v. Werstler	NDOH	CLEVE		XXX	
OH-233	US v. Frazier	NDOH	CLEVE			XXX
OH-234	US v. Wilson	NDOH	CLEVE			XXX
OH-235	US v. Barry	NDOH	CLEVE			XXX
OH-236	US v. Rollins	NDOH	CLEVE		XXX	
OH-237	US v. Graewe	NDOH	CLEVE			XXX
OH-238	US v. Canaday	NDOH	CLEVE			XXX
OH-239	US v. Lichtenstein	NDOH	CLEVE			XXX
OH-240	US v. Marrali & Gallina	NDOH	CLEVE		XXX	
OH-242	US v. Busacca & Hanson	NDOH	CLEVE		XXX	
OH-243	US v. Dorler	NDOH	CLEVE			XXX
OH-244	US v. Dorler	NDOH	CLEVE			XXX
OH-245	US v. Demart	NDOH	CLEVE			XXX
OH-246	US v. Dama	NDOH	CLEVE			XXX
OH-247	US v. Granberry	NDOH	CLEVE			XXX
OH-248	US v. Wilson	NDOH	CLEVE		XXX	
OH-249	US v. Mikhail	NDOH	CLEVE			XXX
OH-250	US v. Wilson	NDOH	CLEVE		XXX	
OH-341	US v. Hoven	NDOH	CLEVE			XXX
OH-342	US v. Weintraut	NDOH	CLEVE			XXX
OH-343	US v. Odom	NDOH	CLEVE			XXX
OH-344	US v. Wettrick	NDOH	CLEVE		XXX	
OH-345	US v. Kearns	NDOH	CLEVE		XXX	
OH-55	US v. Presser	NDOH	CLEVE		XXX	
OH-586	OH v. Warner	NDOH	CLEVE			XXX
OR-590	OR v. Llewellyn			OR		XXX

File #	Case Name	US Att District	Strike Force	State Att. Gen.	Active	Inactive
OR-591	OR v. Wright			OR		XXX
OR-592	OR v. Lewis & Wright			OR		XXX
OR-593	OR v. Markovich & Markovich			OR		XXX
OR-594	OR v. Riley & Riley			OR		XXX
OR-595	OR v. Ericksen			OR		XXX
OR-596	OR v. Broeg			OR		XXX
OR-597	OR v. McDaniel			OR		XXX
OR-598	OR v. Low			OR		XXX
OR-599	OR v. Rode			OR		XXX
OR-600	OR v. Walker			OR		XXX
OR-601	OR v. Stiles			OR		XXX
OR-602	OR v. Lacy			OR		XXX
PA-50	US v. Traitz	EDPA	PHILA		XXX	
PA-522	US v. Scarfo	EDPA	PHILA		XXX	
PA-530	US v. Beloff	EDPA	PHILA		XXX	
PA-533	US v. Adragna	MDPA	PHILA		XXX	
PA-547	US v. Iovine	EDPA	PHILA		XXX	
PA-548	US v. Gatto	EDPA	PHILA		XXX	
PA-550	US v. Iovine	EDPA	PHILA		XXX	
PA-555	US v. Shmidheiser	EDPA	PHILA		XXX	
PA-565	US v. Cantino	EDPA	PHILA		XXX	
PA-566	US v. Local 30	EDPA	PHILA		XXX	
PA-623	US v. Ciancaglini & Branche	EDPA	PHILA		XXX	
PA-624	US v. Lit	EDPA	PHILA		XXX	
PA-68	US v. Hart	EDPA	PHILA		XXX	
PA-69	US v. Scarfo	EDPA	PHILA		XXX	
RI-563	US v. E.F. Hutton	DDRI	BOST		XXX	
RI-564	US v. Argenti & Shahinian	DDRI	BOST		XXX	
TX-286	TX v. Harris & Harris	SDTX	NEWORL			XXX
TX-689	US v. Quach & Ha	NDTX	NEWORL			XXX
TX-690	US v. D'Angelo	SDTX	NEWORL			XXX
TX-691	US v. Bodukoglu	SDTX	NEWORL			XXX
TX-692	US v. Lotito	SDTX	NEWORL			XXX
TX-702	US v. Ramirez	SDTX	NEWORL			XXX
VA-54	US v. Goodfarb	EDVA			XXX	XXX
WA-70	US v. Cantino	WDWA			XXX	XXX

## Appendix 2

### Approach and Methodology

Because it was widely recognized that data on the business-type activities of organized criminal groups had not been explored or organized in any systematic way, the approach and methodology were necessarily flexible in order to allow us to explore alternative rationales for what we found. The latitude permitted by the approach taken was of great value as data collection and analysis went forward.

The general approach that we took can be compared to a literature search of information sources involving recurring data elements, and requiring only the most rudimentary analysis to describe and summarize its findings. We did not identify dependent or independent variables in the traditional statistical sense, and we were not concerned with case outcomes. Finally, the selection of cases/indictments that made up the data base itself was important only to the extent that we did not want to miss rare but important information -- today's rare case that is a portent of tomorrow's pressing problem.

**Project Advisory Panel Meeting.** The developmental work on the project was greatly assisted by the Project Advisory Panel, which met on May 11, 1988.<sup>1</sup> The principal items on the agenda of the Panel were (a) review of the preliminary sites selected for data collection and options for selection of other sites, (b) review of the data collection and analysis plans, including draft data collection instruments, and (c) discussion of the uses to which the research could best be put to support law enforcement agency users.

While we might have preferred a more comprehensive source of data on business-type activities, the only readily available source of such information is found in the experiences of law enforcement personnel (both prosecutors and investigators), which is reflected in criminal indictments, civil complaints and other public record data. In particular, many recent federal and state RICO indictments are "talking indictments," providing a detailed factual account of events, occurrences and activities beyond the skeleton of legal and technical allegations.

In order to enhance and supplement the data contained in the indictments and civil complaints, and to capture the law enforcement experiences not contained in them, we undertook an extensive set of interviews with experienced organized crime investigative and prosecutive personnel.

**Site Selection.** The criteria for selection of data collection sites were:

1. the presence of active organized crime prosecution programs,

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<sup>1</sup>The project benefited greatly from the linkage between the Project Advisory Panel and other NIJ activities addressing organized crime. Several of the Advisory Panel members were participants in the Symposium on Major Issues in Organized Crime Control (Grant No. 85-IJ-CX-0014) which was a major contributor to NIJ research efforts. Because of their participation, the Advisory Panel was alert to the need and opportunity for the project to be an affirmative, integrated part of NIJ's overall research program.

2. an agency focus on RICO or other prosecutions that were likely to provide details of organized crime business-type activities, and
3. the involvement of different jurisdictions (federal, state and local) that confronted different aspects of the organized crime challenge.

Specifically, we collected data from:

1. the Organized Crime Strike Forces under the supervision of the Organized Crime and Racketeering Section of the Criminal Division, U.S. Department of Justice,
2. The Office of the United States Attorney for the Southern District of New York and other United States Attorneys' Offices.
3. The Federal Bureau of Investigation offices that work closely with federal prosecutors on organized crime cases.
4. State attorneys general offices that had experience and expertise in organized crime investigation and prosecution.

**Data Selection.** The foundation for data collection was contained in indictments and civil complaints. The primary criterion for selecting cases was that the case present and describe the business-type activities of organized criminal figures or groups. In addition, however, cases were selected on the basis of:

1. richness of the description of business-type activities,
2. unique characteristics of the activities described,
3. unusual combinations of business-type activities and the elements used to implement such activities, and
4. unusual combinations of legal and illegal activities.

Each case, represented by an indictment or civil complaint, was supplemented with other public record information obtained from data collection sites and other sources.

A guiding principle in data selection was to minimize the burden that our efforts imposed on data collection sites. In furtherance of this goal we took a number of steps to simplify the data selection process. First, we asked data collection sites to provide us with "all" of the "organized crime" indictments and complaints issued from their offices between "January 1, 1986 and December 31, 1987":

1. **all.** By asking for all such indictments and complaints we relieved the data collection burden that would have been imposed on data collection sites if we had asked them to provide only those cases that met the case selection criteria that we had established. Although this process imposed a logistical burden on the offices, it was a burden imposed primarily on clerical staff, not on professionals within each office.

2. **organized crime.** Our request for data was framed in the broadest possible terms -- we asked only for "organized crime cases" without attempting to impose any definitional restriction on the kind of case to be provided. We felt this was justified since these were agencies or unites dedicated to organized crime enforcement. As was the case above, this procedure removed any decision making burden from the data collection sites.
3. **January 1, 1986 to December 31, 1987.** There were two reasons for imposing a time constraint on our request for data. First, we wanted to have the latest information about the business-type activities of organized crime.<sup>2</sup> Second, we wanted to ensure that we obtained a manageable number of cases within the limits of the project's time and budget.<sup>3</sup>

The result of this data selection procedure was the receipt of 601 indictments and civil complaints.

**Data Coding.** Each indictment and civil complaint was coded using a standard coding form developed in the early stages of data collection. We began with an initial list of variables, which was expanded as the first indictments and civil complaints were received and coded. The final coding form is shown in Appendix 4.

The coding procedure took place as follows:

1. As each indictment or civil complaint was received, it was assigned a unique File Number and entered on an Indictment Status Form. In order to facilitate record keeping and analysis, any supplementary public record information regarding a case was identified with the same File Number.
2. Each indictment or civil complaint was first read and a case memo was generated for each case. The purpose of the case memo was to communicate an initial recommendation regarding the suitability of the case for inclusion in the project data base. In addition, the case memo contained a very brief description of the facts of the case, notes on important or unusual aspects of the case, preliminary thoughts on business-type activities present in the case, and suggestions for information that might be followed up on during site visit interviews.
3. Each case was then read by the Project Director and a final decision made regarding suitability for inclusion in the project data base. In the majority of cases, there was an immediate consensus about the suitability of cases. When

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<sup>2</sup>Because of the lag between investigation and indictment, the activities that were reflected in the indictments and complaints often took place a year or more prior to the issuance of the indictment or complaint. Since active case investigations are highly confidential, we are confident that we obtained the most recent publicly available information about the business-type activities of organized criminal groups. In fact, across the duration of the project we continued to receive newly filed indictments and civil complaints from the data collection sites.

<sup>3</sup>If the initial time period had not resulted in a sufficient number of cases, we would have been in a position request additional material from earlier dates.

there was not, however, each case was discussed until a decision was reached.

4. The selection process resulted in two groups of cases:

- (1) "active" cases that were coded and entered into the project data base. Active cases were those that met the general criteria described above, and that served as the foundation for analysis of the business-type activities of organized criminal groups; and
- (2) "inactive" cases for which only a minimal amount of information was coded and maintained in an inactive case data base. Inactive cases of several distinct types:
  - (a) indictments relating to the activities of single defendants in which there was no reference to a larger criminal group or to a continuing series of illegal acts that would be characteristics of organized crime involvement.<sup>4</sup>
  - (b) indictments relating to the activities of single or multiple defendants who were engaged in what appeared to be typical white-collar crime schemes, such as securities fraud or land development fraud.
  - (c) indictments relating to common organized criminal activities already represented among cases in the active data base. The most common example of such cases were the numerous indictments charging common gambling and/or unlawful debt collection activities, and the large number of cases involving victimization of unions (typically the looting of union health and welfare funds). Unless such cases presented unusual or novel twists to business-type activities, they were not included in the active data base.
  - (d) indictments relating to the activities of individuals or groups whose sole purpose appeared to be involvement in narcotics trafficking.<sup>5</sup> Such cases were excluded for the same reasons discussed in (c), above -- the number of strictly narcotics-related indictments would have overwhelmed the other aspects of business-type activities that we

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<sup>4</sup>Such cases may well have involved members of organized criminal groups, but there was no evidence of such involvement from the face of the indictment. Examples of such cases are those in which individuals are indicted for firearms violations or for tax violations.

<sup>5</sup>The business-type activities associated with narcotics trafficking and drug distribution are represented in the active data base through cases in which such activities were part of a broader set of illegal activities in which organized criminal groups engaged.



were interested in. In addition, the narcotics trafficking cases were of a very different character from all the other data collected.<sup>6</sup>

5. Active cases were then coded using the coding form shown as Attachment 2. In addition, inactive cases were coded and entered in the inactive case data base. Inactive cases were coded for general identifying and descriptive information and for one general category that described the predominant illegal activities described in the indictment.

**Site Visit Interviews.** The review and initial analysis of indictments and civil complaints, and the form developed for coding active cases were used as the basis for development and refinement of an interview protocol for the site visit interviews that were conducted with experienced prosecutors and investigators. The purpose of the in-depth interviews was (1) to expand on the data collected from indictments, civil complaints and other public record materials, and (2) to capture and organize the investigative and prosecutive expertise for the benefit of law enforcement agencies that decide to exploit the business-type activity focus for improvement of their own enforcement techniques and strategies. The interview protocol is shown as Appendix 5.

The site visit interviews turned out to be an exceptionally rich source of information on the business-type activities of organized criminal groups. While indictments and civil complaints typically identified the broad outlines of illegal activities, and many times provided some information on how such activities were implemented, they did not contain the richness of detail that was originally anticipated. Thus, greater emphasis was placed on the site visits to obtain a substantial part of the data necessary to meet the objectives of the project.

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<sup>6</sup>There are significant differences between the operations of what we generally consider "organized crime" and drug trafficking groups. See Reuter P. "Organized Crime Isn't the Scourge It Used To Be." Wall Street Journal, 5/20/86, p. 30.

## Appendix 3

### Project Advisory Panel

#### Study of Organized Crime Business-Type Activities

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Appendix 4

**BTA PROJECT  
DATA COLLECTION FORM**

BTA Project Case No: \_\_\_\_\_ Case Name \_\_\_\_\_

Criminal\_\_\_ Civil\_\_\_ RICO\_\_\_ Active\_\_\_ Inactive\_\_\_

Indictment/Complaint No: \_\_\_\_\_

Agency Identification

USA District \_\_\_\_\_

Local Prosecutor \_\_\_\_\_  
State Attorney General \_\_\_\_\_

Other Agency \_\_\_\_\_  
Strike Force \_\_\_\_\_

Location of Criminal Activity

Primary \_\_\_\_\_

Secondary \_\_\_\_\_

Region of Primary Location

North East \_\_\_\_\_  
South \_\_\_\_\_

North Central \_\_\_\_\_  
West \_\_\_\_\_

Nature of Organized Crime Group

\_\_\_ Auto theft/Chop shop  
\_\_\_ Cosa Nostra  
\_\_\_ Drug Trafficking Group  
\_\_\_ Ethnic  
\_\_\_ Ethnic: Black  
\_\_\_ Ethnic: Other

\_\_\_ Ideological, i.e. The Nation  
\_\_\_ Labor Union  
\_\_\_ Local Criminal Syndicate  
\_\_\_ Motorcycle Gang  
\_\_\_ Prison Gang  
\_\_\_ Other

Organizational Structure of Organized Crime Group

Centralized \_\_\_\_\_ Decentralized \_\_\_\_\_ Franchised \_\_\_\_\_

Case Characteristics

Offense(s) actually charged in indictments/complaints, both business and non-business-type legal offenses.

- |  |   |
|--|---|
| <input type="checkbox"/> Aggravated assault                          | <input type="checkbox"/> Armed robbery  |
| <input type="checkbox"/> Arson                                       | <input type="checkbox"/> Bid-rigging  |
| <input type="checkbox"/> Bribery                                     | <input type="checkbox"/> Conspiracy   |
| <input type="checkbox"/> Counterfeiting violations                   | <input type="checkbox"/> Counterfeiting-access device (e.g. credit card) violations |
| <input type="checkbox"/> Criminal contempt                           | <input type="checkbox"/> Currency violation   |
| <input type="checkbox"/> Drug trafficking                            | <input type="checkbox"/> Embezzlement/conversion                                    |
| <input type="checkbox"/> Extortion                                   | <input type="checkbox"/> Fraud against government                                   |
| <input type="checkbox"/> False statements/filings                    | <input type="checkbox"/> Fencing  |
| <input type="checkbox"/> Firearms violations                         | <input type="checkbox"/> Forgery  |
| <input type="checkbox"/> Fraud                                       | <input type="checkbox"/> Gambling-casino  |
| <input type="checkbox"/> Gambling-numbers                            | <input type="checkbox"/> Gambling-other   |
| <input type="checkbox"/> Gambling-sports                             | <input type="checkbox"/> Interstate transportation in aide of racketeering          |
| <input type="checkbox"/> Interstate transportation-stolen propety    | <input type="checkbox"/> Interstate transportation-gambling devices                 |
| <input type="checkbox"/> Interstate transportation/forged securities | <input type="checkbox"/> Interstate transportation-obscene matter                   |
| <input type="checkbox"/> Kickbacks                                   | <input type="checkbox"/> Larceny, grand   |
| <input type="checkbox"/> Leader-organized crime                      | <input type="checkbox"/> Loansharking   |
| <input type="checkbox"/> Money laundering                            | <input type="checkbox"/> Murder   |
| <input type="checkbox"/> Murder-attempt                              | <input type="checkbox"/> Obstruction of justice                                     |
| <input type="checkbox"/> Pornography                                 | <input type="checkbox"/> Perjury  |
| <input type="checkbox"/> Possession-drugs                            | <input type="checkbox"/> Possession-contraband                                      |
| <input type="checkbox"/> Possession-weapons                          | <input type="checkbox"/> Possession-gambling records                                |
| <input type="checkbox"/> Possession-stolen property                  | <input type="checkbox"/> Prostitution   |
| <input type="checkbox"/> Public corruption                           | <input type="checkbox"/> Possession-usurious loan records                           |
| <input type="checkbox"/> Sale of endangered species                  | <input type="checkbox"/> Racketeering   |
| <input type="checkbox"/> Sexual exploitation of minor                | <input type="checkbox"/> Securities fraud   |
| <input type="checkbox"/> Tax violations                              | <input type="checkbox"/> Smuggling  |
| <input type="checkbox"/> Threat financial/economic harm              | <input type="checkbox"/> Theft  |
| <input type="checkbox"/> Union corruption                            | <input type="checkbox"/> Threat/violence  |
| <input type="checkbox"/> Usury                                       | <input type="checkbox"/> Unlawful debt collection                                   |
|  | <input type="checkbox"/> Witness tampering  |

Other Illegal Activity, not included as a separate criminal charge, e.g. predicate offenses in RICO cases, activities cited in conspiracy charges, if not charged

- |  |   |
|--|---|
| <input type="checkbox"/> Aggravated assault                          | <input type="checkbox"/> Armed robbery  |
| <input type="checkbox"/> Arson                                       | <input type="checkbox"/> Bid-rigging  |
| <input type="checkbox"/> Bribery                                     | <input type="checkbox"/> Conspiracy   |
| <input type="checkbox"/> Counterfeiting violations                   | <input type="checkbox"/> Counterfeiting-access device (e.g. credit card) violations |
| <input type="checkbox"/> Criminal contempt                           | <input type="checkbox"/> Currency violation   |
| <input type="checkbox"/> Drug trafficking                            | <input type="checkbox"/> Embezzlement/conversion                                    |
| <input type="checkbox"/> Extortion                                   | <input type="checkbox"/> Fraud against government                                   |
| <input type="checkbox"/> False statements/filings                    | <input type="checkbox"/> Fencing  |
| <input type="checkbox"/> Firearms violations                         | <input type="checkbox"/> Forgery  |
| <input type="checkbox"/> Fraud                                       | <input type="checkbox"/> Gambling-casino  |
| <input type="checkbox"/> Gambling-numbers                            | <input type="checkbox"/> Gambling-other   |
| <input type="checkbox"/> Gambling-sports                             | <input type="checkbox"/> Interstate transportation in aid of racketeering           |
| <input type="checkbox"/> Interstate transportation-stolen property   | <input type="checkbox"/> Interstate transportation-gambling devices                 |
| <input type="checkbox"/> Interstate transportation/forged securities | <input type="checkbox"/> Interstate transportation-obscene matter                   |
| <input type="checkbox"/> Kickbacks                                   | <input type="checkbox"/> Larceny, grand   |
| <input type="checkbox"/> Leader-organized crime                      | <input type="checkbox"/> Loansharking   |
| <input type="checkbox"/> Money laundering                            | <input type="checkbox"/> Murder   |
| <input type="checkbox"/> Murder-attempt                              | <input type="checkbox"/> Obstruction of justice                                     |
| <input type="checkbox"/> Pornography                                 | <input type="checkbox"/> Perjury  |
| <input type="checkbox"/> Possession-drugs                            | <input type="checkbox"/> Possession-contraband                                      |
| <input type="checkbox"/> Possession-weapons                          | <input type="checkbox"/> Possession-gambling records                                |
| <input type="checkbox"/> Possession-stolen property                  | <input type="checkbox"/> Prostitution   |
| <input type="checkbox"/> Public corruption                           | <input type="checkbox"/> Possession-usurious loan records                           |
| <input type="checkbox"/> Sale of endangered species                  | <input type="checkbox"/> Racketeering   |
| <input type="checkbox"/> Sexual exploitation of minor                | <input type="checkbox"/> Securities fraud   |
| <input type="checkbox"/> Tax violations                              | <input type="checkbox"/> Smuggling  |
| <input type="checkbox"/> Threat financial/economic harm              | <input type="checkbox"/> Theft  |
| <input type="checkbox"/> Union corruption                            | <input type="checkbox"/> Threat/violence  |
| <input type="checkbox"/> Usury                                       | <input type="checkbox"/> Unlawful debt collection                                   |
|  | <input type="checkbox"/> Witness tampering  |

Relief Requested

- Costs of Civil Action  
 Recovery of bid-rigging profits

- Placing business in receivership  
 Divestiture-business interests  
 Establishment of victim fund

- Associations with one another  
 "making" new member  
 Participation in labor union activities  
  
 Transfer of any interest in business or real property

Monetary Relief

- Costs of Investigation and Prosecution  
 Recovery of stolen or misappropriated funds

Equitable Relief

- Placing trustee over union and/or benefit funds  
 Divestiture-business ownership

Restraints on Actions

- Further criminal activity  
 Organizational involvement  
 Participation in or profit from business enterprises

Forfeitures

- \_\_\_ Assets in pension funds
- \_\_\_ Cash
- \_\_\_ General forfeiture language
- \_\_\_ Personal property
- \_\_\_ Stocks/bonds/securities
- \_\_\_ Yacht(s)/boats
- \_\_\_ Business equipment/inventory

- \_\_\_ Bank account(s)
- \_\_\_ Certificates of Deposit
- \_\_\_ Jobs/positions
- \_\_\_ Real property
- \_\_\_ Vehicle(s)
- \_\_\_ Business equity

Business Type Activities

- \_\_\_ Allocation of territories
- \_\_\_ Bid-rigging
- \_\_\_ Bribery
- \_\_\_ Counterfeiting
- \_\_\_ Debt collection
- \_\_\_ Extortion
- \_\_\_ Fraud
- \_\_\_ Gambling-card games
- \_\_\_ Gambling-numbers
- \_\_\_ Kickbacks
- \_\_\_ Loansharking
- \_\_\_ Murder
- \_\_\_ Political corruption
- \_\_\_ Prostitution
- \_\_\_ Securities fraud
- \_\_\_ Transportation-gaming devices
- \_\_\_ Union "sweetheart" contracts

Illegal Activities

- \_\_\_ Arson
- \_\_\_ Boiler room
- \_\_\_ Contraband (e.g.,untaxed cigs)
- \_\_\_ Counterfeiting-credit cards
- \_\_\_ Embezzlement/misapplications
- \_\_\_ Fencing
- \_\_\_ Gambling-bookmaking
- \_\_\_ Gambling-dice games
- \_\_\_ Gambling-other
- \_\_\_ Legal education
- \_\_\_ Money laundering
- \_\_\_ Narcotics trafficking
- \_\_\_ Pornography
- \_\_\_ Public Corruption
- \_\_\_ Skimming
- \_\_\_ Union "labor peace"
- \_\_\_ Usury (e.g., loansharking)

Legal Activities

- \_\_\_ Adult book stores
- \_\_\_ Air freight services
- \_\_\_ Auto wrecking/auto parts
- \_\_\_ Bar/Tavern
- \_\_\_ Cargo Handling
- \_\_\_ City government
- \_\_\_ Employee fund administration
- \_\_\_ Escort services
- \_\_\_ Food (pizza)
- \_\_\_ Gambling
- \_\_\_ Health care services
- \_\_\_ Hotel/motel services
- \_\_\_ Insurance sales
- \_\_\_ Investment-securities
- \_\_\_ Law enforcement
- \_\_\_ Linen supplies
- \_\_\_ Manufacturing
- \_\_\_ Mortgage lending
- \_\_\_ Pension/investment management
- \_\_\_ Real estate services
- \_\_\_ Retail sales
- \_\_\_ Stock/security trading
- \_\_\_ Toxic waste disposal
- \_\_\_ Transportation services
- \_\_\_ Wholesale sales

- \_\_\_ Adult Entertainment
- \_\_\_ Auto sales
- \_\_\_ Banking
- \_\_\_ Building material supplies
- \_\_\_ Cargo/container handling
- \_\_\_ Construction-commercial
- \_\_\_ Equipment repair service
- \_\_\_ Financial services
- \_\_\_ Food products
- \_\_\_ Gambling casino-licensed
- \_\_\_ Health spa
- \_\_\_ Importing
- \_\_\_ Investment-coins
- \_\_\_ Labor relations consulting
- \_\_\_ Limousine service
- \_\_\_ Mail order services
- \_\_\_ Massage parlor
- \_\_\_ Moving services
- \_\_\_ Photography studio
- \_\_\_ Restaurant operations
- \_\_\_ Solid waste disposal
- \_\_\_ Tow truck operations
- \_\_\_ Transportation
- \_\_\_ Union Administration
- \_\_\_ Other

Purposes of Providing Legal Goods and Services

- |   |  |
|---|--|
| <input type="checkbox"/> Generate capital for illegitimate activities | <input type="checkbox"/> Generate source of illegitimate profit, e.g.,<br>skimming |
| <input type="checkbox"/> Generate source of legitimate profit         | <input type="checkbox"/> Influence public officials                                |
| <input type="checkbox"/> Launder money                                | <input type="checkbox"/> Protect individuals from criminal liability               |
| <input type="checkbox"/> Provide standby jobs for retainers           | <input type="checkbox"/> Sell stolen property                                      |
| <input type="checkbox"/> Front for illegal activities                 | <input type="checkbox"/> Provide opportunity for illegal activity                  |

Objectives of Business Organization, beyond providing goods and services

- |   |   |
|---|---|
| <input type="checkbox"/> Allocation of markets (excluding bid-rigging)        | <input type="checkbox"/> Arbitrate disputes                             |
| <input type="checkbox"/> Conceal non-legitimate business from law enforcement | <input type="checkbox"/> Cooperate with other organized criminal groups |
| <input type="checkbox"/> Defense against law enforcement                      | <input type="checkbox"/> Eliminate competition                          |
| <input type="checkbox"/> Enforce discipline                                   | <input type="checkbox"/> Exercise influence/control over industry       |
| <input type="checkbox"/> Exercise influence/control over union                | <input type="checkbox"/> Investment-legitimate business                 |
| <input type="checkbox"/> Offer and withhold jobs                              | <input type="checkbox"/> Perpetuate organization                        |
| <input type="checkbox"/> Provide jobs for retainers                           | <input type="checkbox"/> Provide operational structure and procedures   |
| <input type="checkbox"/> Punish recklessness                                  | <input type="checkbox"/> Set rules                                      |

Market for Illegal Goods and Services

- |   |   |
|---|---|
| <input type="checkbox"/> Have no monopoly, competing with other criminals outside group | <input type="checkbox"/> Have no monopoly, competing with other non-criminals outside group |
| <input type="checkbox"/> Have no monopoly, competing with others within group           | <input type="checkbox"/> Leader of group and thus not actively involved in market           |
| <input type="checkbox"/> Operate geographical monopoly of goods and services            | <input type="checkbox"/> Operate monopoly of selected goods and services                    |

Criminal Assets

- |  |   |
|--|---|
| <input type="checkbox"/> Ability to use power/authority of a legitimate organization | <input type="checkbox"/> Access to legitimate sources/channels of money |
| <input type="checkbox"/> Capacity to corrupt agencies of government                  | <input type="checkbox"/> Capacity to corrupt private operations         |
| <input type="checkbox"/> Connections within criminal network                         | <input type="checkbox"/> Operational experience                         |
| <input type="checkbox"/> Reputation for violence                                     |   |

Assets Held

- |  |  |
|--|--|
| <input type="checkbox"/> Access devices (e.g., credit cards) | <input type="checkbox"/> Accounts receivable               |
| <input type="checkbox"/> Airplane(s)                         | <input type="checkbox"/> Automobiles                       |
| <input type="checkbox"/> Bank accounts                       | <input type="checkbox"/> Bar/restaurant                    |
| <input type="checkbox"/> Blank airline tickets               | <input type="checkbox"/> Business Inventory                |
| <input type="checkbox"/> Cash-in-hand                        | <input type="checkbox"/> Certificates of deposit           |
| <input type="checkbox"/> Computers                           | <input type="checkbox"/> Contraband-firearms               |
| <input type="checkbox"/> Contract rights                     | <input type="checkbox"/> Credit cards                      |
| <input type="checkbox"/> Employees                           | <input type="checkbox"/> Evidences of indebtedness         |
| <input type="checkbox"/> Leases-real property                | <input type="checkbox"/> Pension rights                    |
| <input type="checkbox"/> Real property                       | <input type="checkbox"/> Safe deposit box                  |
| <input type="checkbox"/> Stocks/bonds                        | <input type="checkbox"/> Telephone access devices-hardware |
| <input type="checkbox"/> Telephone access devices-numbers    |  |

Business Activities

- Advertising
- Communications
- Currency transport
- Employee benefit services
- Insurance services
- Labor services
- Lobbying

Services Required

- Banking
- Credit
- Customs brokerage
- Financial advice/srvc
- Investment-legitimate business
- Legal advice/services
- Real estate services

Functions That Parallel Legal Activities

- |  |  |
|--|--|
| <input type="checkbox"/> Credit sales/flooring | <input type="checkbox"/> Debt collection service                 |
| <input type="checkbox"/> Intelligence          | <input type="checkbox"/> Market regulation/protection            |
| <input type="checkbox"/> Marketing/selling     | <input type="checkbox"/> Personnel policies/procedures           |
| <input type="checkbox"/> Recruitment           | <input type="checkbox"/> Security                                |
| <input type="checkbox"/> Training              | <input type="checkbox"/> Transportation and distribution-product |

Ways in Which Organization Financially Provides for Members

- |  |   |
|--|---|
| <input type="checkbox"/> Direct subsidy                                  | <input type="checkbox"/> Provide no show job in other's legitimate business |
| <input type="checkbox"/> Provide no show job in own legitimate business  | <input type="checkbox"/> Provide real job in other's illegal business       |
| <input type="checkbox"/> Provide real job in other's legitimate business | <input type="checkbox"/> Provide real job in own illegal business           |
| <input type="checkbox"/> Provide real job in own legitimate business     | <input type="checkbox"/> Purchase real and personal property for members    |
| <input type="checkbox"/> Set up in illegal business                      | <input type="checkbox"/> Set up in legitimate business                      |
| <input type="checkbox"/> Support of family if imprisoned                 |   |

Methods of Acquiring Ownership/Control

Legal Methods of Ownership/Control

- |   |   |
|---|---|
| <input type="checkbox"/> Election (union, corporation, etc.)  | <input type="checkbox"/> Gift                   |
| <input type="checkbox"/> In lieu of legitimate debt repayment | <input type="checkbox"/> Inheritance            |
| <input type="checkbox"/> Purchase                             | <input type="checkbox"/> Self-established/built |

Illegal Methods of Ownership/Control

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> Bankruptcy | <input type="checkbox"/> Bribery                   |
| <input type="checkbox"/> Extortion  | <input type="checkbox"/> In lieu of loanshark debt |

Indicia of Ownership/Control

Indicia of Legal Ownership/Control

- |   |  |
|---|--|
| <input type="checkbox"/> Corporate/bus. documents         | <input type="checkbox"/> Debt certificates/notes |
| <input type="checkbox"/> Deed                             | <input type="checkbox"/> Equity certificate      |
| <input type="checkbox"/> Titles (e.g., vehicles/aircraft) |  |

Indicia of Illegal Ownership/Control

- |                                    |   |  |
|------------------------------------|---|--|
| <input type="checkbox"/> Kickbacks | <input type="checkbox"/> Ownership by "front" | <input type="checkbox"/> Points (skim) |
|------------------------------------|---|--|

Nature of Victim(s)

- |                                     |                                     |                                      |  |
|-------------------------------------|-------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> Businesses | <input type="checkbox"/> Government | <input type="checkbox"/> Individuals | <input type="checkbox"/> Union members |
|-------------------------------------|-------------------------------------|--------------------------------------|--|



## Appendix 5

### BTA PROJECT

#### Interview Protocol: General

##### 1. Organizational Structure of Organized Crime.

This category relates to the methods by which OC groups are organized and operated, and looks to the strength of centralized control and the delegation of decision making. The general issue of concern is whether there are special vulnerabilities that arise from that structure.

- Are most OC groups organized in some centralized or decentralized fashion? What are the variants in the form of organization, e.g., hierarchical, direct, etc.?
- Is there any relationship between structure and the activities that the OC groups are involved in?
- Why and/or how do certain organizational structures facilitate or inhibit particular OC criminal activities and/or combinations of activities?
- Do particular illegal activities lend themselves to or require centralized authority and decision making?
- Does a centralized/decentralized organization lead to particular vulnerabilities that have been/can be exploited by investigators and/or prosecutors?

##### 2. Case Characteristics -- Offenses/Other Illegal Activity.

The material below lists the offenses actually charged in order to get some insight into the relationships between the business-type activities (BTAs) of organized criminal groups and the practical problems of charging offenses. In most instance where particular offenses are charged, there are other illegal activities that were undertaken by defendants that are not charged because there is insufficient proof, because they might cause confusion in the prosecution, because the indictment is already heavily weighted with provable offenses, or for other reasons. Yet the organized criminal group operations involved will generally not be fully understandable without considering these underlying offenses, and the business-type activities (BTAs) involved in them. It should be noted that the same criminal activities may be charged in one count, yet be an "other illegal activity" with respect to another count, and therefore be coded both ways.

- What are the most frequently charged offenses in OC cases?
- Why are they most frequently charged?
- Because of the prevalence of activities or because the charges are the easiest to prove?

- Are charges brought that don't always necessarily reflect the major activity that the OC group is involved in (because the charge can be proved) -- the Al Capone situation?
- Are there unique or unusual charges that have been brought in OC cases -- what were the circumstances that led to unusual charges?
- Are there charges that are commonly brought in connection with other charges, e.g., loansharking and gambling?

### 3. Relief Requested.

Relief requested is crucial to the objectives of this research because prosecution in organized crime cases has a broader objective than simply convicting individuals for their specific criminal behaviors. RICO prosecutions illustrate this point most graphically. The objective is to cripple, and to put organized criminal groups out of business. The material below asks about the various forms of relief in order to develop information on the appropriateness of particular relief, forfeitures, etc., in dealing with organized criminal groups. Material later in the protocol asks about the kinds of assets possessed by OC groups, and what kinds of relief are or have been requested in light of patterns of charges and patterns of assets present in particular cases. Answers to these questions will shed light on tools that can be called on where specific business-type activities appear, both for prosecutorial purposes and to cripple on-going business-type activities.

- What are the most common forms of relief that have been sought in OC cases?

Monetary  
Equitable  
Restraints on Activity  
Forfeitures

- What are seen as the forms of relief that are most effective in disabling OC groups and continued OC activities?
- Are there relationships between particular business-type activities in OC illegal activities and the most effective form of relief?

### 4. Business Type Activities -- Illegal Activities.

Based on a preliminary examination of indictments prior to major data collection efforts, organized criminal groups frequently are involved a combination of activities, some of which are clearly illegal, and some of which would be legal if pursued independent of illegal activity. For example, a pizza parlor is a legitimate enterprise, although it may be used as part of or to further an illegitimate enterprise, e.g., to distribute narcotics. This category addresses only those business-type activities that are used in purely illegal OC operations.

- What are the most prevalent forms of illegal activity engaged in by OC groups?

- What are unique or uncommon forms of illegal activity that have been encountered?
- Are there patterns of illegal activity that appear to occur together with a high frequency?
- If so, what is it about these activities that lend themselves to this form of interaction? Are the skills or resources required by them complementary in some way?
- Are the victims of such activity the same so that one individual is the target of several illegal activities (e.g., gambling & loansharking)?
- Are there particular illegal activities that appear to occur in isolation? That is, are some illegal activities engaged in as "specialties?"
- If so, what is it about these activities that support their "stand alone" character?
- Does there seem to be a progression or sequence, e.g., do OC groups start in with one activity and progress to specific or commonly adopted sequential activities because certain activities provide the opportunity or require the skills that lead to a progression in criminal activity?
- What illegal activities are easiest to detect and prosecute? What illegal activities are the most difficult to detect and prosecute?
- Is there a relationship between the ease or difficulty of detection and prosecution and the "quantum" of crime deterred -- is there a cost-benefit assessment in decisions regarding what illegal activities should be investigated and prosecuted?

##### 5. Business Type Activities -- Legal Activities.

This category addresses the business activities of organized criminal groups that are or would be legitimate if they were not intermingled with the criminal activities of the organized criminal groups.

- What are the most prevalent forms of legal activity engaged in by OC groups?
- What is it about these activities that is attractive to OC groups? Why do they engage in these particular legal activities?
- Do these activities result in any special vulnerabilities for OC groups in terms of detection, investigation or prosecution?
- What are the most unique or uncommon forms of legal activity that have been encountered?
- Are there patterns of legal activity that appear to occur together with a high frequency?

- If so, what is it about these activities that lend themselves to this form of interaction? Are the skills or resources required by them complementary in some way?
- What are the main purposes of OC groups for engaging in legal activities? Front for other illegal activity? Laundering money? Other?
- If an OC group is involved in legal activities, in which is it easiest to detect underlying illegal activities?
- What has been the enforcement experience in moving from detection of legal activities to detection of illegal activities, or the reverse?
- Is there any relationship between the major criminal focus of an OC group and the types of legal activities in which it is engaged -- e.g., if an OC group is primarily involved in gambling, are there particular legal activities that such a group is likely to be attracted to?
- If so, what is it about the legal activities that make them attractive to the OC group?

6. Purpose of Providing Legal Goods and Services.

Organized criminal groups are frequently involved, as noted above, in legitimate business activities, providing a broad range of legal goods and services. There may be a number of reasons for such involvement, e.g., investment, or fronts for criminal activities. Or such activities may simply maximize the ability of the OC group to engage in planned illegal activity or maximize the groups' ability to effectively take advantage of targets of opportunity. This category looks to these reasons, since understanding them will help to understand motivations for organized criminal group activities and also to plan for expanded investigations.

- What are the primary purposes of OC groups in engaging in legal activities?
  - \_\_\_ generate capital for illegitimate activities
  - \_\_\_ generate source of illegitimate profit, e.g., skimming
  - \_\_\_ generate source of legitimate profit
  - \_\_\_ influence public officials
  - \_\_\_ launder money
  - \_\_\_ protect individuals from criminal liability
  - \_\_\_ provide standby jobs for retainers
  - \_\_\_ sell stolen property
  - \_\_\_ front for illegal activities
  - \_\_\_ provide opportunity for illegal activity, e.g., maximize ability to engage in planned illegal activity, and maximize ability to take advantage of targets of opportunity.
  - \_\_\_ other
- Is there any relationship between the purpose of engaging in legal activities and the other purposes or objectives that the OC group might want to accomplish -- e.g., if the primary purpose of engaging in a legal activity is to launder money are there particular legal activities that lend themselves to this purpose?

- If the primary purpose is to provide a livelihood for "soldiers," are there particular legal activities that lend themselves to this purpose?

## 7. Objectives of Business Organization.

The material in this section asks about the organized criminal group as a "business", separate and apart from whether it is engaged in illegitimate or legitimate activities. It looks to why such groups are operated and managed as they are, what they seek to accomplish by the various business activities in which they are engaged (separate and apart from the objective of making money). These objectives may be broad (e.g., allocation of markets) or narrow (e.g., punish recklessness).

- The following are examples of the general and implementing objectives of an OC business organization:

### General Objectives

- perpetuate the organization
- cooperate with other OC groups
- exercise influence/control over labor union
- exercise influence/control over industry

### Implementing Objectives

- arbitrate disputes
- enforce discipline
- offer and withhold jobs
- defense against law enforcement
- provide jobs for retainers
- punish recklessness
- set rules
- investment in legitimate business
- allocation of markets (excluding bid-rigging)
- provide operational structure and procedures
- eliminate competition

- Are there other specific general or implementing objectives that have been encountered in OC cases?

## 8. Market for Illegal Goods and Services.

The manner in which the "business of crime" is managed and operated may well reflect the nature of the market in which it is engaged. This material asks about the relationships between the nature of the market and the kinds of business-type activities undertaken by organized criminal groups, and other data elements that may correlate with the nature of the market.

- Do OC groups operate a monopoly for particular goods and/or services?
- What markets for illegal goods and/or services are usually operated in a monopolistic fashion?
- For which goods and/or services is there likely to be competition between criminal OC groups or between OC groups and independent criminals?

- Are there goods and/or services that OC groups provide for which there is non-criminal competition?
- Do OC groups always attempt to achieve monopoly markets? Are markets ever divided between groups?
- If so, how is such a division attained and enforced?
- Does the fact that a monopoly exists result in any special vulnerability for OC groups to detection and prosecution?
- Does the fact that a monopoly exists result in any special incentives to internal intra-group strife? Disincentives to cooperation?
- Are competitive or monopolistic activities easier to investigate and prosecute? Why?

#### 9. Criminal Assets.

The term "assets" is used here in a conceptual rather than a material sense, as is clear from the items below.

- The following are examples of criminal assets:
  - ability to use power/authority of a legitimate organization
  - access to legitimate channels/sources of money
  - capacity to corrupt agencies of government or private operations
  - connections within the criminal network
  - operational experience
  - reputation for violence
- In this same vein, what are other criminal assets possessed by OC groups?
- How are criminal assets like those listed above employed by OC groups to achieve their purposes and objectives?
- Is there a relationship between important criminal assets and the types of illegal activities engaged in by OC groups -- e.g., which assets are important for which activities?

#### 10. Assets Held.

This material deals with "assets" in the conventional sense, asking what assets the defendants hold, either personally or through their organizations. Getting this information will help create an inventory of assets that are likely to be found when one looks at organized criminal groups, and what asset possession may correlate with particular business-type activities. This information, in turn, will help to identify targets for forfeiture or equitable relief.

- In the accounting sense, what are the main assets (both tangible and intangible) held by OC groups and individuals?

- What kinds of assets are part of the inventory of "tools" for OC groups, e.g., cash used as operating capital for loansharking purposes?
- Are the assets held by OC groups related to the kinds of illegal activities in which they are engaged?
- Do there appear to be preferences for the kinds of assets held by OC groups? Beyond cash in hand, what are the preferred assets of OC groups and individuals?
- Are assets held primarily for immediate consumption or for investment? If for investment, what are the preferred channels of investment, both legal and illegal?
- How are assets controlled by OC groups? How is the stream of income and outgo accounted for? Are there audits and other fiscal control processes in place, either formal or informal?
- Does the form in which assets are held create or result in any particular vulnerabilities for OC groups or individuals to detection and prosecution?

#### **11. Business Activities - Legitimate Services Required.**

In order to use some business type activities, organized criminal groups require services that are substantially parallel to the needs of legitimate business organizations. Information collected in this category will help to identify sources of evidence (e.g., suppliers, bankers or other sources from necessary outside parties) on how OC groups carry out illegal activities.

- The following are examples of legitimate services that may be required by OC groups in the conduct of their licit and illicit activities:
  - advertising
  - banking
  - communications
  - credit
  - financial advice/services
  - legal advice/services
  - real estate services
  - insurance services
  - customs brokerage
- In this vein, what are other legitimate services that may be needed by OC groups in order to carry out their illegal activities?
- Do OC groups obtain such services from otherwise legitimate sources?
- Are such services provided by "in-house" specialists or employees?
- What is it about the illegal activities that determines whether services will be obtained from legitimate outside sources or provided by in-house specialists?
- As general rule, are legitimate service providers aware of the OC connections of their clients/customers?

- Are there particular illegal activities engaged in by OC groups that appear to require greater utilization of legitimate business services?
- Does the fact that an OC group utilizes outside services create any special vulnerabilities to detection and prosecution?
- If so, what are examples of how have these vulnerabilities been exploited by law enforcement?

**12. Ways in Which Organization Financially Provides for Members.**

It is clear from even a cursory examination of organized crime activities that these groups provide financially for their members in many different ways, sometimes through direct payments, sometimes in a manner analogous to commission payments, sometimes through the provision of business opportunities or employment in legitimate business enterprises. In addition, OC groups require or put great pressure on members and associates to come up with new and/or additional money-making ventures, and to that extent, provide new sources of income for the organization. Understanding the different methods and correlating them with specific Business-type activities will help with our understanding of organized criminal groups and with the functions of intelligence and case-building investigations.

- What are the most common ways in which OC groups provide for the financial welfare of their members?
- Does such support come primarily from legitimate (e.g., legitimate employment by a company owned/controlled by OC) or illegitimate (direct proceeds of illegal activity) sources?
- If support comes from illegitimate sources, is there any system for keeping track of payments to members?
- Is payment on a "salary" equivalent (a sum certain per month), or a commission basis? How are commissions determined? Is there any system for accounting for "sales" or money earned against which the commission is determined?
- If by employment in a legitimate business, are the legal formalities typically complied with -- e.g., tax matters?
- In legitimate businesses that employ OC members, are there mixtures of legitimate employees and employees who are members of the OC group?
- What incentives or pressures to OC groups impose on members or associates to produce income?
- What kinds, if any, of guidance or training accompany such pressures?



**13. Methods of Acquiring Ownership/Control - Legal Methods.**

Methods used by organized criminal groups to obtain ownership and/or control of both criminal and legal enterprises vary widely. In analyzing their activities, it will be helpful both to create an inventory of such methods (both legitimate and illegitimate) and to correlate them with other characteristics of the business-type activities involved.

- What are the most common legal methods whereby OC groups acquire ownership and/or control of a business organization?
- In such cases, are the legal formalities typically complied with? If not, what formalities are most often overlooked and/or ignored? Why? Has failure to comply with formalities been a source of vulnerability for OC groups? How?
- What types of businesses are most frequently legally owned or controlled by OC groups?
- Does the nature of the business owned and/or controlled depend upon the nature of the illegal activity primarily engaged in by the OC group?
- Does legal ownership/control of a business create any special vulnerabilities for OC groups?

**14. Methods of Acquiring Ownership/Control - Illegal Methods.**

- The following are examples of illegal methods by which OC groups obtain ownership/control of a business:
  - bankruptcy
  - bribery
  - extortion
  - in lieu of loanshark debt
- What other illegal methods have been utilized by OC groups to obtain ownership/control of businesses?
- Does utilization of illegal methods of ownership/control of a business create any special vulnerabilities to detection and prosecution of OC groups?
- Are there businesses that are particularly vulnerable to infiltration through illegal methods of ownership/control? Why? What are the characteristics of such businesses?

**15. Indicia of Ownership/Control -- Legal Indicia.**

- What are the important indicators of ownership/control of a business by an OC group?
- How are these indicators used to identify the vulnerabilities of the OC group or individual?

**16. Nature of Victims.**

- Are there relationships between kinds of illegal activities and the nature of the victims of that activity?
- Do some categories of victims present special opportunities for detection and prosecution of OC activity? If so, how are such victims identified?
- Do victims provide special opportunities for finding "stand-up" witnesses or sources of evidence?
- Do victims provide special opportunities for identifying individuals as sources of information and evidence who cannot be intimidated?