

ORGANIZED CRIME: THE PROBLEM AND SOME SUGGESTED APPROACHES

*Hon. Frederick B. Lacey**

It has now been proven beyond a reasonable doubt that organized criminal groups operate in all sections of this nation.¹ Here in New Jersey, as elsewhere, these groups not only exist but have alarmingly penetrated virtually all of societal institutions. We have seen police departments succumb to moral decay; sheriff's offices tarnished; and our state legislature has suffered some embarrassment due to indiscretion on the part of some of its members. The federal sphere of government has also been shown vulnerable to this poison of corruption.

To rid ourselves of Organized Crime, the spirit of reform, an irresistible moral force, must be sparked, fueled and disseminated. The danger to our state and nation must be stridently announced by all in law enforcement. The slightest departure from high moral standards in the public forum must be punished or, at the very least, exposed to public scrutiny.

It is the purpose of this article to remind those who are members of the legal community that this burden of reform is one each of us must share. The attorney in his private practice, elective office, judicial capacity or executive position must become an active participant in this war on Organized Crime.

This is the time for courageous abandonment of old political restraints, for the throwing to the winds of political caution, and the denunciation and elimination of venal ties between political leaders and Organized Crime.

AN OVERVIEW OF ORGANIZED CRIME

Organized Crime is a society that seeks to operate outside the control of the American people and their government. Its actions are

* United States Attorney for the District of New Jersey. The author wishes to express his appreciation to Assistant United States Attorney Stephen M. Greenberg, for his assistance in the preparation of this article. The views expressed herein are personal to the author and do not necessarily reflect the views of the Department of Justice.

At the time this article went to press, the author had been nominated by the President and confirmed by the Senate for appointment as a United States District Court Judge for the District of New Jersey.

¹ PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE, REPORT, THE CHALLENGE OF CRIME IN A FREE SOCIETY 191 (1967) [hereinafter cited as 1967 REPORT].

not impulsive, but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over entire fields of activity in order to amass great profits.²

The core of Organized Crime activity is the supplying of illegal goods and services—gambling,³ loan sharking,⁴ narcotics⁵ and other forms of vice—to countless numbers of citizen customers.⁶ Organized Crime is also deeply rooted in labor unions⁷ and legitimate businesses.⁸

There are two aspects of Organized Crime which distinguish it from other forms of criminal activity. One is the “enforcer” and the other is the “corruptor.”⁹ Other criminal groups may allocate functions among particular members, but these two positions are not routinely found in other criminal groups. It is on this basis, therefore, that Organized Crime groups differ from professional criminal groups generally. It is on this basis that the challenge presented by Organized Crime must be evaluated.

The “enforcer’s” duty is to maintain organizational integrity by arranging for the beating or killing of recalcitrant members or potential witnesses against the group.¹⁰ The “corruptor,” on the other hand, seeks to establish relations with those public officials and other influential persons whose assistance is necessary to achieve the organization’s overall goals.¹¹ The prime tool which is available to these corruptors is the massive wealth achieved through the previously mentioned illegal activities of the mob.

Through their ability to obtain the grace of public officials, the leaders of Organized Crime have been notoriously successful in escaping apprehension and punishment. Reports indicate that members

² SENATE SPECIAL COMM. TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE COMMERCE, 3RD INTERIM REPORT, S. REP. NO. 307, 82d Cong., 1st Sess. 150 (1951).

³ See PERMANENT SUBCOMM. ON INVESTIGATION OF THE SENATE COMM. ON GOV'T OPERATIONS, GAMBLING AND ORGANIZED CRIME, S. REP. NO. 1310, 87th Cong., 2d Sess. (1962).

⁴ See NEW YORK TEMPORARY COMM. OF INVESTIGATION, THE LOAN SHARK RACKET (1965).

⁵ See generally *Narcotics Hearings*, 88th Cong., 1st Sess., pts. 1, 2 (1963); McLELLAN, NARCOTICS REP., S. REP. NO. 72, 89th Cong., 1st Sess. (1969).

⁶ Johnson, *Organized Crime: Challenge to the American Legal System*, 53 J. CRIM. L.C. & P.S. 399, 402-04 (1962).

⁷ See SENATE SELECT COMM. ON IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD, INDEX TO REPORTS, 86th Cong., 20th Sess. (1960).

⁸ This subject is dealt with under a separate heading, *infra*.

⁹ 1967 REPORT, *supra* note 1, at 193.

¹⁰ Testimony of J. Edgar Hoover, *Hearings Before a Subcomm. of the House Comm. on Appropriations*, 89th Cong., 1st Sess. 272 (1966) [hereinafter cited as *1966 Hearings*].

¹¹ *Id.* at 273.

of Organized Crime¹² have obtained dismissals or acquittals from the charges against them more than twice as often for their numbers as other offenders.¹³ Moreover, 17.6 percent of Organized Crime members in that study were able to obtain acquittals or dismissals of cases against them five or more times each.¹⁴

This then is the operating structure of Organized Crime. Its posture is obviously one of a massive threat to our society.

WHY NEW JERSEY?

It has been estimated that at least two thousand persons, actively engaged in Organized Criminal activities, operate in the New York-New Jersey geographical area.¹⁵ Certainly, the sheer numbers indicated above display the problem posed to our state by this element. Moreover, New Jersey is and has been the principal place of business of a vast number of national and international corporations.¹⁶ It is those legitimate concerns which Organized Crime is now looking to as sources of "investment" for its illegal bounty. New Jersey, therefore, presents a prime target.

In the words of President Nixon, these elements have gained "enormous holdings" in otherwise legitimate business.¹⁷ Once penetration is accomplished, these groups bring the same techniques of intimidation, extortion, and violence used in the "mob's" illegal ventures. Competition is no longer that of the marketplace, but rather one of fear and violence.

Studies have shown that, as a general rule, there is a disturbing lack of interest on the part of business concerns regarding the identity of persons with whom they deal.¹⁸ This attitude has proven to be conducive to the perpetration of fraud and the infiltration of these businesses by the criminal element.¹⁹

More importantly, it can be said that Organized Crime, as it

¹² Those included in the study were identified before a Senate subcommittee during its hearings in March and June of 1969. See 115 CONG. REC. 1429 (daily ed. Nov. 17, 1969).

¹³ REPORT OF THE COMM. ON THE JUDICIARY, 91st Cong., 1st Sess. 43 (1969).

¹⁴ *Id.*

¹⁵ 1966 Hearings, *supra* note 10, at 273.

¹⁶ NEW JERSEY CORPORATION LAW REVISION COMMISSION, REPORT AND COMMENT 5 (1968).

¹⁷ MESSAGE FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO THE FIGHT AGAINST ORGANIZED CRIME, H.R. DOC. NO. 91-105, 91st Cong., 1st Sess. (April 23, 1969).

¹⁸ 1967 REPORT, *supra* note 1, at 443.

¹⁹ *Id.*

flourishes, engenders other crimes. Two years ago, the Governor's Select Commission on Civil Disorders issued its report concerning disorders, and the resultant deaths, personal injury and property damage that had occurred in New Jersey cities, particularly Newark. The Commission noted that disrespect for the police and city government in Newark in the form of a "pervasive feeling of corruption" was a major contributing factor to the riots which occurred in Newark in 1967.²⁰ In the words of the Commission:

It is said that the City commission of the 1930's and 1940's left Newark a heritage that has not been shaken off. There is a widespread belief that Newark's government is corrupt.

Knowledgeable and substantial people expressed this belief, off the record. . . . A source close to Newark businessmen said that he understood from them that "everything at City Hall is for sale." A former state official, a former city official and an incumbent city official all use the same phrase: "There's a price on everything at City Hall."²¹

That the above quote denoted the situation as it actually existed in Newark is no longer questionable.²² In fact, the archetype of the "corruptor-enforcer" duality used by Organized Crime was shown to exist in the largest city of this state.²³

New Jersey is not the worst state in the country insofar as the existence of Organized Crime is concerned. There is no method by which such ratings can be made. However, we in New Jersey can take pride in the fact that the law enforcement officials in our state have taken significant strides in combatting this problem. It must continue.

SOME SUGGESTED APPROACHES TO THE PROBLEM

On August 5, 1970, Attorney General John N. Mitchell announced that a "federal-state-municipal task force" was being composed to fight Organized Crime in New Jersey.²⁴ This is the cooperative form of action which must be had to effectively deal with this problem.

When I took the oath of office on September 2, 1969, I said:

²⁰ GOVERNOR'S SELECT COMMISSION ON CIVIL DISORDER, STATE OF NEW JERSEY, REPORT FOR ACTION 20 (1968).

²¹ *Id.*

²² See *United States v. Addonizio*, Cr. No. 548-69 (D.N.J. July 22, 1969).

²³ *Id.*

²⁴ *Evening News* (Newark, N.J.), Aug. 6, 1970, at 1, col. 4 (City-County ed.).

[I]t is on the state and local levels where law enforcement must succeed, or we all will fail. The Federal Government can provide leadership, and in certain limited areas can operate massively. But state and local officers must be effective if our society is to survive the wave of crime.²⁵

The commitment of federal resources to this effort is best expressed by the following words of the President:

Organized crime in the United States has three goals: exploitation, corruption, and destruction. What it cannot directly exploit, it seeks to corrupt; what it cannot corrupt, it seeks to destroy. Its degrading influence can be felt in every level of American society, sometimes in insidious, subtle ways, but more often in direct acts of violence and illegality. It is a malignant growth in the body of American social and economic life that must be eliminated.

Today I am establishing a National Council on Organized Crime, under the chairmanship of the Attorney General, to formulate an effective, coordinated national strategy for the elimination of organized crime.²⁶

At the state level, the response has also been geared to an effective drive against these criminal elements. A statewide Grand Jury, the State Commission of Investigation and the Criminal Law Revision Commission have all lent force to a coordinated effort against criminal activity. Further, legislation was enacted to permit the granting of witness immunity,²⁷ to allow wiretapping and electronic surveillance,²⁸ to combat loansharking²⁹ and to prevent the theft and fraudulent use of credit cards.³⁰

This same legislature was also responsive to recommendations submitted by the United States Attorney's Office in January of 1970.³¹ While enacting the State Criminal Justice Act of 1970,³² the state legislators remarked:

²⁵ Transcript of Swearing In Ceremonies—Frederick B. Lacey, United States Attorney for the District of New Jersey, Sept. 2, 1969.

²⁶ Statement by President Nixon upon signing an executive order establishing the National Council on Organized Crime, June 4, 1970, 6 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 728 (June 8, 1970).

²⁷ N.J. STAT. ANN. § 2A:81-17.3 (Supp. 1969).

²⁸ N.J. STAT. ANN. §§ 2A:156A-1 *et seq.* (Supp. 1969).

²⁹ N.J. STAT. ANN. § 2A:105-5 (1969); N.J. STAT. ANN. §§ 2A:119A-1 *et seq.* (1969).

³⁰ N.J. STAT. ANN. §§ 2A:111-40 *et seq.* (1969).

³¹ Recommendations to the 1970 Session of the New Jersey Legislature Concerning Legislation Which Might Be Enacted to Curb the Power and Influence of Organized Crime in New Jersey, D-972, Jan. 20, 1970.

³² Pub. L. 1970, ch. 74 (April 23, 1970).

The Legislature recognizes that the existence of organized crime presents a serious threat to our political, social and economic institutions and helps bring about a loss of popular confidence in the agencies of government. Accordingly, it is hereby declared to be the public policy of this State to encourage cooperation among law enforcement officers and to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State, in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State. All the provisions of this act shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the above declaration of policy.³³

The tenor of the declaration of policy announced above demonstrates the willingness of our state officials to join in a concentrated effort against criminal infiltration. The Act goes on to create a Criminal Division of Justice to prosecute criminal enterprises within the state. The Act also extends the authority of the Attorney General to supersede the authority of a county prosecutor in any investigation. This particular aspect of the bill bespeaks the emphasis of our state officials on a new approach to law enforcement. The problem which this legislation seeks to remedy was expressed by a political reporter as follows:

Many New Jersey politicians and political scientists question whether any governor, no matter how dedicated to fighting Organized Crime, can be free to act forcefully as long as county leaders of both parties—and some of the counties under investigation are under G.O.P. control—retain the power of the enormous state patronage that is channeled through county court houses. That patronage, provided by a decentralized state government, has been translated into a virtual veto power over the appointment of county prosecutors and judges.³⁴

Certainly the executive and legislative branches of our state government have taken up the challenge posed in the above article.

Earlier in this article, I discussed briefly the problem of the incursion of Organized Crime into legitimate business. This is done in a number of ways: the racketeer may invest his concealed profits acquired from gambling and other illegal activities; he may accept a share of the business in payment of a gambling debt; he may foreclose on usurious loans; or he may use various forms of extortion. These

³³ *Id.*

³⁴ Reeves, *Challenge from Cahill against Crime*, N.Y. Times, Dec. 24, 1969, at 26, col. 6.

modes of penetration may be achieved through either a key executive or one of a number of employees. Very often a key employee may become heavily in debt to the gambling syndicate. This debt may be repaid by a favor which would give the same syndicate a foothold onto the legitimate operation. Once Organized Crime has penetrated on this level, it has the necessary impetus to permit an eventual takeover.

Another method of penetration includes the use of foreign banking operations. The mob will arrange for transmission of its illegal gains to a foreign bank where, under the laws of secrecy that prevail, the identity of the criminal is concealed. The foreign bank is then used to acquire stock of an American company and acts as a nominee, still concealing the identities of the criminal investors.³⁵

Further, it has been increasingly clear in recent years that the security and banking institutions and brokerage houses have been compromised in many instances. Dealing in stolen securities is now an extensive mob activity. Information has come to our attention which indicates that securities can now be stolen on an "on order" basis from a certain such few institutions in this country. We also know that in the first nine months of 1969, it was reported that 45 million dollars of securities were "lost or stolen" from banks and brokerage houses. We have pending in the District of New Jersey an indictment against several defendants charging theft of securities from a bank or brokerage house. Although further details would be an inappropriate disclosure, suffice it to say that a tremendous threat exists to our public corporations.

In order for the state to prosecute the criminal penetration of business, a new vehicle was required. As a result, the legislature enacted the New Jersey Anti-Trust Act.³⁶ This was a specific recommendation made to fight these criminal elements. The legislation permits the Attorney General to investigate and prosecute any anti-competitive practices within a statewide relevant market. Further, immunity provisions provide a method of inquiry into those entities which were not previously available. Companies in violation of the Act are subject to heavy fines, injunctive proceedings and the forfeiture of their right to do business in the state. This Act, coupled with the use of Federal Anti-Trust Laws,³⁷ provides law enforcement officials with a viable weapon against these concerns.

³⁵ Speech by Assistant Attorney General Will Wilson, National Industrial Conference Board, June 26, 1969.

³⁶ Pub. L. 1970, ch. 73 (April 23, 1970).

³⁷ 15 U.S.C. §§ 1 *et seq.* (1964).

In 1967, a federal commission conducted a study of state and local law enforcement approaches to the problem of Organized Crime. A majority of those agencies studied refused to acknowledge the presence of these groups.³⁸ The remainder included only a small number which had specialized law enforcement units to deal with this problem.³⁹

Law enforcement officials in New Jersey have not succumbed to the apathy revealed in the above statistics. Rather, there has been both recognition and specialized action taken by law enforcement officers in this state to rid itself of these elements. New Jersey stands out from other areas as a leader in this fight against Organized Crime.

CONCLUSION

It was recently reported that of the ten top Organized Crime figures in the State of New Jersey, six had either been indicted, convicted or jailed for contempt.⁴⁰ This was a direct result of a combined effort by federal, state and local law enforcement officers.

There are, however, problems which still exist. It is necessary for each prosecutive and investigative agency to send out and secure information regularly. A clearing house should be established to serve as an information bank for all law enforcement officials. This would mitigate a number of problems: witness immunity would be cleared through this joint center to prevent impairment of pending prosecutions; investigations would be coordinated so that duplicative efforts are avoided; a more efficient and viable use of manpower would be made through this directed effort. Moreover, an effort which combined the resources of all law enforcement officers in this state would generate information to a public aroused and confident in the ability of its representatives to rid itself of Organized Crime.

It is the popular respect for law and public officials which is necessary for the survival of our system.

³⁸ TASK FORCE REPORT: ORGANIZED CRIME 12 (1967).

³⁹ *Id.*

⁴⁰ Hillmann, *The War Against Organized Crime*, *The Star-Ledger* (Newark, N.J.), July 19, 1970, at 1, col. 1.