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ORGANIZED CRIME: CHALLENGE TO THE AMERICAN LEGAL SYSTEM

Part I—Organized Crime: The Nature of Its Threat, The Reasons for Its Survival

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The following article and two further installments which will appear in subsequent issues of the *Journal* are based upon a thesis which the author prepared while a graduate student at Northwestern.

The first installment contains an assessment of the effects of organized crime on American society and an analysis of the factors which have made organized crime difficult to suppress through traditional methods of law enforcement. The second installment will summarize the various legal countermeasures available to an honest prosecutor—particularly a local prosecutor—in combating organized crime. These measures involve techniques designed to weaken criminal organizations through convicting their leaders, reducing their profits, and denying them access to services and facilities necessary to their illegal enterprises. The third installment will be a survey of the legal countermeasures available to minimize the effects of political corruption upon the prosecutive effort against organized crime. This survey will encompass means for substituting another prosecutive agency where the local prosecutor is corrupt or ineffectual, sanctions to discourage a corrupt official from improper acts, methods of minimizing the effects of improper acts when they do occur, and techniques to maximize the effect of an honest official where others in the law enforcement machinery are under the control of organized crime.—EDITOR.

America has a new folklore. Unfortunately, this folklore is not made up of oft-repeated legends from a safe and misty past. This folklore has grown up around the heavily shrouded, perennially profitable, often bloody doings of a present day phenomenon—organized crime. Next to westerns, war, and sex, it is probably the chief source of material for TV plots,¹ books—both fiction² and non-fiction³—, and newspaper exposés.⁴ The names

of "Scarface" Al Capone, Frank "The Enforcer" Nitti, Tony Accardo, Frank Costello, and "Lucky" Luciano⁵ have become as familiar to most present

* The views expressed in this article are the views of the author and are not meant to reflect those of the United States Department of Justice or the Organized Crime and Racketeering Section of that Department.

¹ Among continuing series which have devoted all or many of their episodes to the exploits of organized crime and those who struggle against organized crime are: "The Untouchables," ABC-TV; "Asphalt Jungle," ABC-TV; "Tightrope," CBS-TV; "Cain's Hundred," NBC-TV; "Target: The Corruptors," ACB-TV; "D.A.'s Man," NBC-TV.

² E.g., HUNTER, *THE ASPHALT JUNGLE* (1947); ROBERTS, *NEVER LOVE A STRANGER* (1948); BOTEEN, *THE PROSECUTOR* (1953); DELEEUEW, *UNDERWORLD STORY* (1955).

³ Among the non-fiction works, many of which are authored by men who were personally involved in law enforcement efforts against organized crime or congressional investigations, are the following: ABA,

REPORT ON ORGANIZED CRIME AND LAW ENFORCEMENT (1952-53); ANSLINGER, *THE MURDERERS: THE STORY OF THE NARCOTIC GANGS* (1961); ASBURY, *GANGS OF NEW YORK* (1927); COOK, *A TWO DOLLAR BET MEANS MURDER* (1961); DEP'T OF JUSTICE, ATTORNEY GENERAL'S CONFERENCE ON ORGANIZED CRIME (1951); FEDER AND JOESTEN, *THE LUCIANO STORY* (1954); IREY, *THE TAX DODGERS* (1948); KEFAUVER, *CRIME IN AMERICA* (1951); KENNEDY, R., *THE ENEMY WITHIN* (1960); LYLE, *THE DRY AND LAWLESS YEARS* (1960); MULLADY & KOFOED, *MEET THE MOB* (1961); NESS, *THE UNTOUCHABLES* (1957); PETERSON, *BARBARIANS IN OUR MIDST* (1952); PETERSON, *GAMBLING, SHOULD IT BE LEGALIZED?* (1945); RECKLESS, *THE CRIME PROBLEM* 180-207 (3d ed. 1961); RICE, *THE BUSINESS OF CRIME* (1956); SMITH, *SYNDICATE CITY* (1954); SONDERN, *BROTHERHOOD OF EVIL: THE MAFIA* (1959); TURKUS, *MURDER, INC.* (1951); TYLER, *ORGANIZED CRIME IN AMERICA* (1962).

⁴ See, e.g., the syndicated columns of Lester Velie and Victor Reisel.

⁵ For an interesting article concerning the derivation and function of the colorful monikers which have been attached to some leading figures in organized crime, see Anderson, *What's in a Nickname*, *Parade Magazine*, June 3, 1962, pp. 20-21.

day Americans as Pocohantas, Jesse James, "Wild Bill" Hickock, Paul Bunyon, or Nathan Hale.

It is not the purpose of this article to add to this "new folklore" of organized crime. The emphasis will not be placed on faultlessly executed gangland murders, ingenious narcotics smuggling schemes, or the splendorous standard of living enjoyed by some crime overlords. These exploits of organized crime have been accurately and exhaustively explored in a number of highly publicized congressional investigations⁶ and popularized in various non-fiction books, many of which have become bestsellers.⁷ Nor will the daring exploits of some individual prosecutor or undercover agent be recounted, nor the few semi-successful crusades against organized crime which have sporadically sputtered in some of our large cities. The heroes of this article are neither crime lords nor public servants; they are the legal techniques which have been used or could be used to bring organized crime to its collective knees.

The article will be divided into three installments. In this first installment an attempt will be made to evaluate the threat of organized crime to American society and to probe the factors contributing to its seeming invincibility. The two remaining installments, which are to appear in forthcoming issues of the *Journal*, will be devoted to a presentation and assessment of various legal counter-measures through which the threat of organized crime can be minimized.

I. THE IMPACT OF ORGANIZED CRIME ON AMERICAN SOCIETY

Organized crime in America has been variously described as a wing of the Sicilian Mafia,⁸ as non-

⁶ Senate Select Comm. on Improper Activities in the Labor or Management Field (McClellan Committee), *Hearings* (58 parts), *REPORTS* (2 Interim, 1 Final) (1957-1960) (hereinafter referred to as Senate Select Comm.); Special Senate Comm. to Investigate Organized Crime in Interstate Commerce (Kefauver Committee), *Hearings* (19 parts in 9 volumes), *REPORT* (4 parts in 1 volume) (1950-1951) (hereinafter referred to as Special Senate Comm.); Subcomm. on Improvements in the Federal Criminal Code (Daniels Committee), *Hearings* (10 parts), *REPORT* (1955-56); U. S. Nat'l. Com'n. on Law Observance and Enforcement (Wickersham Committee), *DIEST, REPORTS* (3 volumes), *RECORDS* (5 volumes) (1933-1934).

⁷ Among books concerning organized crime which have reached the bestseller lists are: KENNEDY, R., *THE ENEMY WITHIN* (1960); SONDERN, *BROTHERHOOD OF EVIL: THE MAFIA* (1959); KEFAUVER, *CRIME IN AMERICA* (1951).

⁸ "Behind the local mobs which make up the national crime syndicate is a shadowy, international criminal organization known as the Mafia, so fantastic that most

existent,⁹ as big business,¹⁰ as a disappearing phenomenon,¹¹ as a number of local gangs,¹² as an in-

Americans find it hard to believe it really exists." KEFAUVER, *op. cit. supra* note 7, at 14. One entire book is devoted to suggesting and establishing this thesis. SONDERN, *op. cit. supra* note 7. See also, ANSLINGER, *op. cit. supra* note 3.

⁹ "For years, political leaders and police executives . . . continued to deny the existence of organized crime in Chicago. The Capone gang was a myth, they said. At the attorney general's conference on organized crime held in Washington, D. C., on February 15, 1950, the official spokesman for the city of Chicago expressed indignation when reference was made to the Capone gang. Said this official, 'I do not know the Capone Syndicate exists.'" PETERSON, *BARBARIANS IN OUR MIDST* 271 (1952).

¹⁰ "'Big business' is the descriptive phrase for crime in the St. Louis area . . ." KEFAUVER, *op. cit. supra* note 7, at 160.

¹¹ "With the rationalization and absorption of some illicit activities into the structure of the economy, the passing of an older generation that had established a hegemony over crime, the general rise of minority groups to social position, and the breakup of the urban boss system, the pattern of crime we have discussed is passing as well. Crime, of course, remains as long as passion and the desire for gain remain. But the kind of big, organized city crime, as we have known it for the past seventy-five years, was based on more than these universal motives. It was based on certain characteristics of the American economy, American ethnic groups, and American politics. The changes in all these areas mean that, in the form we have known it, it too will change." BELL, *THE END OF IDEOLOGY* 150 (1960).

This general thesis, that organized crime is a product of certain temporary economic and social forces and will disappear as these forces dissipate, is the subject of Chapter 7 of Mr. Bell's book which was drawn from his article in the *Antioch Review*, Summer, 1953. This optimistic view of the future natural decline and disappearance of organized crime unfortunately does not comport with the facts as they have developed in the nine years which have elapsed since the article was prepared. Illegal gambling revenues remain at an astronomical level (\$11 billion estimated in *The Nation*, Oct. 22, 1960); more gangland killings occurred in Chicago in 1961 than any year since 1935, PETERSON, *A REPORT ON CHICAGO CRIME FOR 1961*, 27 (1962); and younger men are eagerly seizing the reins of power from the older generation of gangland chieftains wherever and whenever the latter pass from the scene due to retirement, imprisonment, or death (e.g., the current leading challenger for control of organized crime in Southern California is Joseph Matranga, age 40, according to a recent *Drew Pearson* column in the *Washington Post*, February 9, 1962, p. B 11). Nor is Mr. Bell's conclusion supported by the findings of a more recent and more exhaustive sociological evaluation of organized crime in which the future development of organized crime is summarized in the following terms:

"What was true in the 1930's is true in the 1960's, guaranteeing the underworld with an institutional longevity extending far beyond the natural life span of its more mortal leadership.

"The delinquent culture becomes an inner frontier, raising barbarians in our midst, strange and hostile to our larger civilization. Out of this culture comes the young gang that in adulthood becomes part of organized crime in America, either by absorption or by conquest.

dependent class in our society,¹³ as a tightly-knit national syndicate,¹⁴ as a vast conspiracy to obstruct justice¹⁵ and as a way of doing business.¹⁶ However, for the purposes of this article criminal organizations may be differentiated from ordinary criminal individuals and groups by resort to a more elementary definition. As used in this article, a criminal organization is a group of considerable size which engages in continuous criminal activity over a long, usually indefinite, period of time.¹⁷

"Organized crime, then, is not a thing of the past; nor is it a tamed beast for the present; it is a powerful, ever renewed social force with which America will have to contend for many years to come." TYLER, *ORGANIZED CRIME IN AMERICA* 366, 372-73 (1962). (Emphasis supplied.)

¹² "I spent some two weeks in New York, Washington and Chicago running down every clue to the so-called Mafia that I could find. I talked to a large number of Federal, state and local law enforcement authorities; to police, reporters, attorneys, detectives, non-profit civic groups such as the Chicago Crime Commission.... The generally held belief is that there is no tightly knit syndicate, but instead a loose "trade association" of criminals in various cities and areas, who run their own shows in their own fields but have matters of mutual interest to take up (as at the Appalachian conference)." Serrell Hillman, *Time* magazine reporter, quoted in BELL, *op. cit. supra* note 11, at 140. Among the adherents to this position is no less than J. Edgar Hoover, whose views were summarized in his statement in the January, 1962, *Law Enforcement Bulletin*, "No single individual or coalition of racketeers dominates organized crime across the nation. There are, however, loose connections among controlling groups in various areas...."

¹³ "The underworld is no longer an ugly hood, a muscle for hire to any master, but an independent power, vying with other great classes and movements in America for wealth and influence in our culture." TYLER, *op. cit. supra* note 11, at 237.

¹⁴ "A nationwide crime syndicate does exist in the United States of America, despite the protestations of a strangely assorted company of criminals, self-serving politicians, plain blind fools, and others who may be honestly misguided, that there is no such combine." KEFAUVER, *op. cit. supra* note 7, at 12.

¹⁵ "The crime of a syndicate is obstruction of justice. But it is obstruction of justice in general, prosecutable normally only when its actions interfere with some specific legal proceeding." Special Group on Organized Crime in the United States, Report to the Attorney General, February 10, 1959, *Hearings Before Subcommittee No. 5 of the Committee on the Judiciary, House of Representatives*, ser. no. 16, 87th Cong. 1st Sess., at 104 (1961).

¹⁶ "[O]rganized crime in its modern form is not a special field of activity rather it is a technique of violence, intimidation and corruption which in default of effective law enforcement can be successfully applied by those sufficiently unscrupulous to any business or industry which produces large profits." Olney, *Federal, State and Local Cooperation in Law Enforcement*, ABA, REPORT ON ORGANIZED CRIME AND LAW ENFORCEMENT 272 (1952-1953).

¹⁷ A more detailed list of typical characteristics was suggested by the Attorney General's Special Group on

The size of the organization will vary, being comprised of enough members to maintain a monopoly in its chosen fields of endeavor in a selected geographical area. The phases of criminal conduct which the organization may enter likewise will vary greatly. But ordinarily an organization will concentrate its efforts in the distribution of illegal commodities and services. Moreover, a single organization typically will diversify with substantial interests in several lines of illegal activity. The most constant and unique element in the definition of a criminal organization is the duration of the group's intended existence. Unlike most criminal groups but like most business enterprises, a criminal organization contemplates a continuous indefinite life-span.

Admittedly, the foregoing is merely a silhouette definition of organized crime. Within the dimensions of size, occupation, and time which are shared by all criminal organizations are highlights and shadings which characterize the vast majority. During the course of this article other generalizations will be offered concerning the nature of organized crime and its mode of operation. These are generalizations which apply to most but not all criminal organizations.

At present there is a vocal controversy raging among experts in law enforcement over the existence of a Mafia or a national syndicate which dominates organized crime throughout the country.¹⁸ It is irrelevant to the purposes of this article

Organized Crime in their "definition of a crime syndicate."

"...[For] purposes of discussion in this report, a crime syndicate is defined as a group having most of the following characteristics, although not necessarily all of them:

- (1) A substantial number of members.
- (2) A large gross volume of operations.
- (3) Interstate operations involving at least a substantial geographical part of the Nation.
- (4) Operations on several vertical levels, such as supplier, manufacturer, wholesaler and retailer; members separated by two or more levels of operation frequently not knowing the identity of each other.
- (5) Major beneficial interest and management divorced from operation, with top leadership engaging primarily in crimes of conspiracy or of aiding and abetting.
- (6) Membership usually engaging in more than one kind of criminal activity.
- (7) Membership habitually engaging in similar criminal conduct, and relying on it as a primary source of income." Special Group on Organized Crime in the United States, *op. cit. supra* note 15, at 103.

¹⁸ The primary proponent of the theory that organized crime in America consists of a national criminal organization dominated by a Sicilian group called the

whether there is one large nation-wide criminal organization or a number of local ones. It is equally immaterial whether it is controlled by the Mafia. Centralized or not, Mafia or not, it is still a "brotherhood of evil."¹⁹ Regardless of the degree of co-

ordination between the organizations located in various sections of our country, the destructive results which have been attained by organized crime call for special consideration and special treatment.

Mafia is the Bureau of Narcotics. The Bureau reports that "on the basis of our official investigations that extend over a 30 year period, we have amassed conclusive evidence of the existence of the Mafia, and consider this secret international society a threat. . . ." Quoted in TYLER, *op. cit. supra* note 11. The Kefauver Committee concluded on the basis of its investigations and the testimony of the Bureau of Narcotics that the Mafia controls organized crime in the United States.

Other leading observers of organized crime, including Virgil Peterson, Operating Director of the Chicago Crime Commission, discount both the Mafia and the concept of a single unified national criminal organization. Persons in this camp generally subscribe to the view that organized crime is basically comprised of many local criminal organizations, each holding sway over a single metropolitan area. To sustain this position, these observers point to the fact that many non-Sicilians play a leading role in organized crime. Even Al Capone was not a Sicilian but an Italian. The occasional conferences attended by members from criminal organizations across the country such as the famous Apalachin meeting in 1958 are explained away as being analogous to "trade conventions" for the purpose of exchanging information and allowing delegates to form incidental cooperative ventures with other independent criminal organizations from other sections of the country.

A possible explanation for the sharp conflict between these honest and knowledgeable observers may be found in their differing perspectives. The Bureau of Narcotics views the institution of organized crime virtually solely as it participates in the narcotics traffic. The narcotics traffic, in turn, requires a high degree of cooperation between persons located at different geographical locations in order to accomplish the many steps involved in producing, processing, importing, reprocessing and distributing this particular product. Moreover, it necessitates international connections, since most narcotics are grown in the Mediterranean and the Far East. Therefore, it would be natural to expect this phase of organized crime's illegitimate activities to be dominated by a group which retained strong ties in the Mediterranean. The Sicilian members of a criminal organization are ideally suited for this. Moreover, it would be logical to expect that criminal organizations engaged in the narcotics traffic would display a high degree of cooperation and coordination *in that phase of their activities*. At the same time, the same criminal organizations might be running their gambling operations and other illegal enterprises without any consultation with organizations in other areas of the nation. Thus, completely independent observers focusing their attention on these other activities of a criminal organization would be lead to the conclusion that it was a completely independent organism unconnected with organized crime in other sections.

¹⁹ It has been observed that whatever its name or scope, organized crime adheres to the same practices and principles as the legendary Mafia of Sicily. "Even the famous code of *omerta*—with its great wall of silence is not peculiarly Sicilian. It is the universal code of the underworld. . . . The only aspect that is distinctly Sicilian is the word itself—*omerta*. . . ." TYLER, *op. cit. supra* note 11, at 332.

A. *The Diversion of Income from Legitimate and Socially Useful Outlets*

In assessing the destructive effects of organized crime, the obvious starting point is the financial tribute it exacts from our society. This is money diverted from the stream of legitimate commerce, from useful products and services, from education and medical care, from honest businessmen and needy families, into the coffers of organized crime.²⁰

At the present time, criminal organizations appear most active in six fields of endeavor—illegal gambling, the distribution of narcotics, racketeering, prostitution, "shylocking," and the infiltration of legitimate business. Of these, gambling is the leading source of organization revenue, accounting for probably half of organization profits.²¹ It has been estimated that illegal gambling grosses from seven to twenty billion dollars annually.²² The narcotics traffic, which yields probably the highest rate of net profit,²³ has been estimated to involve

²⁰ The legitimate sector of the American economy always suffers a net loss from the operation of organized crime. For instance, although the legitimate businesses located in a city which attracts tourists because of its illegal gambling spas may appear to benefit from the existence of organized crime, legitimate commerce as a whole loses revenue. The money spent in the gambling tourist city obviously is money which otherwise would have been spent in legitimate businesses in the home cities of the tourists. Only a portion of these diverted funds reaches hotels, restaurants, and other legitimate outlets in the tourist city. The rest is lost at the gaming tables and thus removed from the channels of legitimate commerce.

²¹ "[T]he reports of the California Crime Study Commission and the Senate Committee establish with equal clarity that illegal gambling has been the principal source of profits and the backbone of organized crime during the twenty years since the repeal of Prohibition and up to the present time." Olney, *supra* note 16, at 273.

²² "Gambling in the United States, we estimate involves about 70,000 persons and a gross volume of \$7 billion, annually." Statement of Attorney General Robert F. Kennedy, *Hearings Before Subcommittee No. 5, supra* note 15, at 24.

²³ "In all, the committee figures conservatively that \$20 billion changes hands every year in the United States as a result of organized illegal gambling. . . ." Special Senate Comm., SECOND INTERIM REPORT, *op. cit. supra* note 6, at 13-14. The reasoning upon which this estimate is based is set forth on page 13 of the Report. A third estimate of \$11 billion annually was made in *The Nation*, Oct. 22, 1960.

²⁴ Some appreciation of the tremendous profits which the distribution of narcotics yields can be obtained

gross sales of 300 million dollars per year.²⁴ Racketeering, although an element in many phases of organization activity, is herein limited to exaction of payments from legitimate businesses and unions through extortion and other more subtle though equally effective pressures.²⁵ As thus defined, evidence indicates that racketeering may be a source of over one billion dollars in additional revenue.²⁶ On the other hand, prostitution, at one time a major organization enterprise, apparently has dwindled in importance as independents and possibly amateurs have cut deeply into the market.²⁷

The newest and most rapidly expanding spheres of organization operations are "shylocking" and the ownership of legitimate businesses. "Shylocking" or "loan sharking" is the loaning of money

from a comparison of the cost of these narcotics to a criminal organization and the price at which it sells this product to the addict. Commissioner Anslinger of the Bureau of Narcotics testified before the Daniels Committee concerning this feature of the narcotics traffic, as follows:

"So you get heroin from additional sources like Lebanon. . . . You could buy an ounce for \$100. By the time it reached the illicit market, the retailer, the user, he would pay roughly in the nature of between \$3,000 and \$4,000 for an ounce." *Hearings Before the Subcommittee on Improvements in the Federal Criminal Code, supra* note 6, at 36.

²⁴ Commissioner Anslinger estimated the traffic in heroin alone to gross between \$300 and \$400 million dollars per year. *Ibid.*

²⁵ The most familiar form of racketeering against legitimate business is the hoary practice of collecting "protection money" from the businessman to insure that the protectors will not injure his person or property. This racket has been traced back at least to Lord Clive, founder of the British Empire in India, who in his youth formed a gang of fellow delinquents to collect tribute from shopowners who did not wish to have their windows broken. See Peterson, *Rackets in America*, 49 J. CRIM. L., C. & P.S. 583 (1959).

The advent of labor unions has added more subtle devices to the arsenal of racketeering techniques and has afforded the racketeer an additional class of victims as well. By founding or gaining control of a union, a criminal organization can use the threat of an organizational campaign or a strike to exact payments from business victims. At the same time, it can fleece the union members by requiring exorbitant dues and assessments and by embezzling union funds. This form of racketeering came in for close scrutiny during the lengthy McClellan Committee hearings. See generally, Senate Select Comm., REPORTS (2 Interim, 1 Final), *op. cit. supra* note 6; KENNEDY, *op. cit. supra* note 7.

²⁶ "Robert F. Kennedy, counsel for the McClellan Senate Committee, has asserted that the underworld is milking a billion dollars a year out of the labor-management rackets." Peterson, *supra* note 25, at 583.

²⁷ See, BELL, *op. cit. supra* note 11, at 149. In certain areas of the country, prostitution appears still to be conducted on a well organized basis with the local criminal organization in control. See, BALTIMORE CRIMINAL JUSTICE COM'N, THIRTY-NINTH ANNUAL REPORT 17-19, 21-27 (1961).

at usurious rates of interest, rates which may run in excess of 150%.²⁸ Since such loans are not legally collectible and contravene criminal laws in most states, this is a natural field for organized crime, which has the means of enforcing payment without resort to the courts and has no compunction about violating criminal statutes. The prevalence of "shylocking" among criminal organizations in various sections of the country suggests that it represents a substantial portion of the multibillion dollar take of organized crime. However, its advent as an important source of profit post-dates most of the congressional hearings, and no one has hazarded a guess concerning the total gross receipts or net profit derived by criminal organizations from "shylocking" activities.²⁹

Legitimate business is another area in which organized crime appears to be extending its influence at an ever increasing pace.³⁰ In many cities, it dominates the fields of juke-box and vending machine distribution.³¹ Laundry services,³² liquor

²⁸ "On the suggestion of Charlie Bernoff, Mishel and Bernoff started loaning cash, a practice which Mishel described as 'shylocking.' This consisted of lending money at illegal rates of interest. . . . The rates of interest would vary, and from loans examined by the committee, it was noted that the interest ranged from a low of 15 percent to as high as 198 percent." Senate Select Comm., FINAL REPORT, part 4, *op. cit. supra* note 6, at 772.

²⁹ A short account of the conduct of shylocking operations in Chicago by organization leaders and their associates is contained in PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 37-38 (1962).

³⁰ "Infiltration of legitimate business by known hoodlums has progressed to an alarming extent in the United States. The Committee uncovered several hundred instances where known hoodlums, many of them employing the 'muscle' methods of their trade, had infiltrated more than seventy types of legitimate business." KEFAUVER, *op. cit. supra* note 7, at 16. For a discussion of the extent and pattern of organized crime's infiltration of legitimate business, see Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 17-81.

³¹ "The early experience with pinball and slot machine gambling, derived by the underworld through its infiltration in this field, has enabled criminals to extend their operations into non-gambling amusement games, automatic phonographs and, to a minor extent, in vending machines. They have obtained such holdings by investing money received from illicit enterprises; and by force, terror and the corruption of management, union and public officials. Experience has shown that where they have such interest they seek to dominate the field, and have attained a great measure of success in urban centers of New York, New Jersey, Illinois, Louisiana, Ohio, Michigan, Florida, and Indiana." Senate Select Comm., FINAL REPORT, Part 4, *op. cit. supra* note 6, at 856.

An extensive survey of the infiltration of organized crime into this industry is contained in the above-cited report of the McClellan committee at pages 733-867.

and beer distribution,³³ nightclubs,³⁴ food wholesaling,³⁵ record manufacturing,³⁶ the garment industry³⁷ and a host of other legitimate lines of

endeavor have been invaded by organized crime.³⁸ When it enters one of these areas, a criminal organization uses force and fear,³⁹ to attempt to

See also, PETERSON, A REPORT ON CHICAGO CRIME FOR 1954, at 19-20 (1955).

³² Some examples of infiltration by organized crime into this industry were cited in the reports of the Kefauver Committee, as follows:

"The phenomenon of Willie Moretti, one of Costello's associates, in making a success of a large linen-supply company because 'he knew a lot of people' and 'got plenty of business in a polite way' (which his competitors found not so polite) is one of the darker chapters of American business.

"In Detroit, Louis Riccardi, an associate of such Detroit hoodlums as Angelo Meli, and who was arrested five times for murder, operates a very profitable laundry—the Clean Linen Service Co. Riccardi made \$56,000 out of this business in 1949. It is alleged that customers who drop his service may find that no other laundry will dare to accept their business.

"Moe Dalitz and other members of the Cleveland gang operate laundries in both Cleveland and Detroit." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 179-80.

³³ The most dramatic and well publicized venture of organized crime into this field was Tony Accardo's service as a "beer salesman" for a beer distributing firm, which service gave rise to his conviction, later reversed, for income tax evasion. "It was also in 1956 that Capone gang boss, Tony Accardo, was placed on the payroll of Premium Beer Sales, Inc., at a salary of \$65,000 a year. Subsequently, whenever . . . distributors wanted Fox Head Beer they found it necessary to make the deal with Premium. Following the revelations in 1959 of Accardo's connection with Premium Beer Sales, Inc., the Fox Head Brewing Company revoked Premium's exclusive distributorship." PETERSON, A REPORT ON CHICAGO CRIME FOR 1959, at 29 (1960). Nor has the Accardo prosecution halted racketeer infiltration of this industry.

"In 1961 Tony Accardo's associate, Dominick Volpe, applied for a basic federal permit for his new venture called the Seaway Beverages, Inc., located at 2555 Armitage Avenue in Cicero. His new company occupies the same quarters as the defunct Premium Beer Sales, Inc. . . ." PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 47 (1962).

Chicago is by no means the only metropolitan center in which criminal organizations have assumed a leading role in the distribution of beer and liquor. The Kefauver Committee uncovered many other instances:

"In Kansas City, the committee found such notorious hoodlums as Joe and Vincent di Giovanni holding exclusive franchises for several leading brands of whisky including Schenley's and Seagrams.

"In New Jersey, Joseph Reinfeld, a leading liquor distributor, and Abner (Longie) Zwillman owned substantial stock . . . in the whisky distilling firm of Browne-Vintners Corp. . . .

"In Tampa, the committee found a Mafia hoodlum, Salvatore 'Red' Italiano, to be the general manager of a wine and beer distributing business. The committee also found a man with a narcotics distributing record, Louis Swed, to be the principal distributor of Budweiser beer in Florida. In Des Moines, Iowa, Lew Farrell, an alleged Capone syndicate hoodlum with a considerable criminal record who allegedly controlled the race wire in that city, . . . distributes Blatz and Prima-Bismarck beer. . . .

"The fact that the committee has mentioned the names of certain leading distillers and brewers should not be construed to mean that they have been the only or even the worst offenders. Practically every large distillery and brewery has granted franchises to racketeer dealers." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 172-74.

³⁴ In 1951, the Kefauver Committee could report that "among the leading hoodlums in the restaurant, night club, bar, and tavern businesses, are Frank Costello, Phil Kastel, Charles Fischetti, Carlos Marcello, Mushy Wexler, Harry Russell, and Mike Lascari." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 180. This list represents organization leaders from Chicago, New York, New Orleans and many other leading cities.

³⁵ "The connection of powerful Capone gangsters with the food industry in Chicago received attention when Dr. Herman N. Bundeson, President of the Board of Health, revealed that based on violation of sanitary laws and operation without a proper license, he had closed the Twin Food Products Company plant at 3250 Wentworth Avenue for a month ending September 18, 1959. Holding financial interests in the company were Philip (Milwaukee Phil) Alderisio and Albert (Obie) Frabotta, and salesmen for the firm included Sam (Teetz) Battaglia and Marshall Caifano. All four men were important Capone gang henchmen." PETERSON, A REPORT ON CHICAGO CRIME FOR 1959, at 36 (1960).

That racketeer infiltration into the food industry is neither confined to the Chicago area nor merely a recent development is attested to by the findings of the Kefauver Committee in 1951. "The Committee found numerous hoodlums engaged in the distribution of food products, including Big Bill Tocco, Joe Massei of Detroit, Carlos Marcello of New Orleans, Paul Di-Giovanni, Emilio Georgetti in California and many others. The committee found evidence of muscle tactics in connection with the baking business in Kansas City, where a hoodlum-dominated bakery owned by the late Charlie Binaggio, Joe Cusumano, and Joe Filardo was muscling in on legitimate bakeries. The committee also found a number of hoodlums engaged in the olive oil, cheese, and other food-importing businesses, including Joe Profaci of New York, Anthony Milano in Detroit, and Jack Dragna on the west coast." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 181.

³⁶ "In late 1956, Chicago jukebox operators received written, telephoned, and personal solicitations from Smith (jukebox racketeer), his brother, Frank, and from Glimco (labor racketeer) to purchase their supplies of records at Lormar Distributing Co. . . .

"This is a syndicate operation, the Lormar Record Co., an underworld's operation, and Mr. English (the owner of record) in our estimation is merely a front. He is a lieutenant of Sam 'Mooney' Giancana, who along with Tony Accardo, is probably now one of the chief underworld figures in the Chicago area. . . ." Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 775-76.

A subsequent simultaneous raid of Lormar and a manufacturing firm in Cincinnati revealed that the two firms were in the business of manufacturing and distributing counterfeit records. *Id.* at 778-79. A trade paper reports that counterfeiting of name-brand records is a burgeoning industry:

secure a monopoly as to that service or product in the metropolitan area where the particular organization is located.⁴⁰ When the campaign to monopolize is successful, the criminal organization begins to extract a premium price from the cus-

"Bootlegging of single records . . . is blossoming in greater abundance than ever. . . .

"Most recently afflicted area appears to be New York but traders are openly connecting bootlegging operations with the vast amount of transhipped merchandise noted as flowing between many cities. . . . What has traders badly shaken up now is the fact that the proportion of bootlegged disks now being sold as legit, seems to be increasing steadily." The Billboard, Nov. 9, 1959, quoted in Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 780.

³⁷ "This industry has attracted some of the top gangsters in the country. Harry Stromberg, alias Nig. Rosen, a tough Philadelphia criminal, was a partner in the Dearest Miss Dress Co., in New York City. . . .

"Irving Sherman, the gambler associate of both Costello and Mayor O'Dwyer, is a partner in Courtshire Fashions which manufactures ladies' coats and suits.

"Albert Anastasia, one of New York's major criminals, has a dress business in Hazelton, Pa. Thomas Luchese, whom the Narcotics Bureau states to be associated with an important narcotics ring in New York, . . . is an officer in a ladies coat manufacturing concern. Frank Livorsi, whose criminal record includes a narcotics conviction and numerous arrests, and who was involved in a big black-market sugar operation during World War II, was in a dress concern with Max Edler, who also had a narcotics record." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 178-79. For an account of this aspect of organized criminal activity, see Velie, *Gangsters in the Dress Business*, Reader's Digest, July, 1955.

³⁸ The Kefauver committee found evidence of racketeer infiltration in no less than 50 separate sectors of legitimate business activity in 1951. These ranged from advertising to transportation. Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 171. A study undertaken by the McClellan Committee into the criminal backgrounds and legitimate holdings of the participants in the Apalachin conference produced the following enlightening outline of criminal power in legitimate commerce:

"There were 58 known hoodlums in attendance at the apalachian meeting, . . . [O]f the 58, 50 had arrest records; 35 records of convictions, and 23 had spent time in prisons or jails as a result of these convictions; 18 of these men had been either arrested or questioned at one time in connection with murder cases. Other illegal activity noted in the survey included narcotics (for which 15 had been arrested or convicted); gambling (for which 30 had been arrested or convicted); and the illegal use of firearms (for which 23 had been arrested or convicted).

"As to legitimate business activities, a study of the men who attended the Apalachian meeting showed: 9 were or had been in the coin-operated machine business; 16 were involved in garment manufacturing or trucking; 10 owned grocery stores or markets; 17 owned taverns or restaurants; 11 were in the olive oil-cheese importing or exporting business; 9 were in the construction business. Others were involved in automotive agencies, coal companies, entertainment, funeral homes, ownership of horses and racetracks, linen and laundry enterprises, trucking, waterfront activities and bakeries, and one was a conductor of a dance band." Senate Select

tomers of the product or service and thereby achieves its accustomed extraordinary rate of return. Thus, millions are channeled into the organization treasury and diverted from law abiding businessmen who conduct their businesses in an ethical manner.⁴¹

Comm., FINAL REPORT, *op. cit. supra* note 6, at 487-88. Also revealing are thumbnail sketches of the legitimate interests held by 31 of the persons in attendance at the Apalachin conference contained in SONDERN, *op. cit. supra* note 7, at 209-10.

³⁹ "These individuals, frequently using their criminal organizations, have engaged in various legitimate enterprises; in these legitimate enterprises they often use the same tactics of intimidation and monopolization which characterize their criminal activities." Special Senate Comm., FIRST INTERIM REPORT, *op. cit. supra* note 6, at 2. A good example of the resort to violence and intimidation as a competitive technique in legitimate commerce is provided by a recent campaign in the Chicago area to obtain locations for organization jukeboxes and pinball machines.

"Of particular interest to the State's Attorney's office was the evidence of violence which had terrorized Chicago coin amusement machine operators for several months. Two Chicago ex-convicts, Alex Ross, . . . and James Rini, . . . had brought coin machine operators and tavern owners in line through attacks with guns, axes and acid. It was alleged that these two men distributed business cards of Thomas (Red) Waterfall, executive director of the Chicago Independent Amusement Association, before they resorted to their terroristic tactics." PETERSON, A REPORT ON CHICAGO CRIME for 1954, at 53 (1955).

⁴⁰ "Organized criminals are active in a great many different fields. Furthermore, the profits derived from these different activities and their consequent relative importance is constantly changing. . . . The underlying motive, however, never varies. It is always to secure and hold a monopoly in some activity which will produce large profits." Olney, *supra* note 16, at 272.

⁴¹ The benefits accruing to a criminal organization from ownership of legitimate businesses often transcend the immediate profits earned by the enterprise. "The Racketeer's choice has been largely in the fields where the cash turnover is great . . . and the problems of accounting and control are difficult." ABA, REPORT ON ORGANIZED CRIME AND LAW ENFORCEMENT 20 (1952-53). This enables an organization to disguise the source and ultimate destination of the ill-gotten gains from its strictly illegal enterprises such as gambling and narcotics. Moreover, legitimate businesses sometimes allow organization leaders to account to the Internal Revenue Service for their luxurious standards of living without revealing either the source or extent of their illegitimate income. See Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 16, at 170.

Ownership of certain types of legitimate business by a criminal organization will materially aid the conduct of its illegitimate endeavors.

"[Y]ou use the same kind of service facilities to maintain various types of gambling equipment that you use to maintain a perfectly legitimate jukebox or a perfectly legitimate cigarette vendor, and you use the same truck, and the same mechanics, and the same shop facilities."

"Testimony about coin-machine operations in Gary, Ind., and New Orleans, La., established that industry

Combining the income earned by organized crime from all these sources, one arrives at an uncertain but staggering sum. It is impossible to calculate the exact amount of money organized crime removes from the economy each year. But it can probably be safely stated that it is more than the earnings of any single legitimate corporation, including General Motors. In fact, it may exceed that of any single industry including the huge automobile and steel industries.⁴²

B. The Suffocation of Free Competition

With its extensive infiltration of legitimate business, organized crime now inflicts a new injury and poses a new threat to the American economy. The proper functioning of a free economy requires that economic decisions be made by persons free to exercise their own judgment. Quality and price must be the determinative factors in the market place. The only limitations upon entry of a given product or a given supplier to the market should be those imposed by the impersonal forces of supply and demand. In most areas of the economy, any artificial influence which exerts pressures on the economic decision-making units of the economy

participation gave to criminals the opportunity to obtain licenses for short-wave radio stations allegedly to dispatch vehicles servicing coin machines, but actually to disseminate racetrack results in furtherance of illegal bookmaking activities."

"[T]rucking operations in some instances give gangsters access to the waterfront, where they can facilitate smuggling of narcotics. The importation of narcotics is also sometimes covered through import-export businesses . . . [N]arcotics are sometimes sealed in barrels of olive oil or in the heart of huge cheeses. . . . [A]cetic anhydride, which is used by garment manufacturers in connection with the treatment of rayon, can also be used to convert raw opium into a morphine base from which it can be made into heroin." Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 742, 743, 498-99. It is interesting to note that of the participants in the Apalachin meeting, 11 were in the olive oil-cheese import-export business, an ideal cover for the importation of narcotics from the Mediterranean area. *Id.* at 487-88.

⁴² Elmo Roper, the pollster, who confined his comparison to the revenues from commercial gambling, has drawn the conclusion that "only the food, steel, auto, chemical, and machine-tool industries have a greater volume of business." BELL, *op. cit. supra* note 11, at 133. Combining with the total from illegal gambling, the millions from narcotics, the billion from labor-management racketeering, and additional billions from "shylocking," legitimate businesses, and other sources it is highly probable that the gross revenues accruing to organized crime surpass most if not all of these gigantic industries. And since the rate of profit enjoyed by organized crime exceeds by several times the normal rates in legitimate industry, it is virtually inevitable that organized crime reaps a higher total of net income than any single industry.

will tend to limit choices, reduce quality, and increase prices. When organized crime embarks on a venture in legitimate business it ordinarily brings to that venture all the techniques of violence and intimidation which are employed in its illegal enterprises.⁴³ Competitors are pressured into shifting to other lines of business or ceasing operations altogether.⁴⁴ Customers are induced to confine

⁴³ "A gangster or racketeer in a legitimate business does not suddenly become respectable. The methods which he used to achieve success in racketeering and gambling enterprises are not easily sloughed off. Thus, evidence was produced before the committee concerning the use of unscrupulous and discriminatory business practices, extortion, bombing, and other forms of violence to eliminate competitors and to compel customers to take articles sold by the mobsters. . . . This gives him a considerable advantage over a more timid competitor and is one of the means whereby the racketeer can push a competitor to the wall." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 170.

⁴⁴ From two coin machine distributors who had the courage to report to the authorities attempts to muscle in on their businesses, the McClellan committee heard dramatic accounts of the techniques employed by a criminal organization against existing concerns in an industry it desires to invade. Mr. Sidney Saul, of Brooklyn, New York, related that strongarm men had advised him to take in the organization as a partner or "they would find my body off the Belt Parkway." When the threat of death did not yield rapid results, Saul was administered a beating which left him unable to chew food for almost three weeks. At the time of the hearings, he was under continuous police protection. Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 756-63.

Similar threats were delivered to Bernard Poss of Aurora, Illinois, by Rocco Prano, an underling of Sam "Mooney" Giancana, who is one of the highest placed members in the Chicago criminal organization. When threats of physical harm to Poss failed to budge him, the organization shifted to another technique.

"I continued to run my business, and then one night I got a telephone call that two men had entered one of my locations, one with an ax and one with a gun. . . . [T]he man with the gun said, 'Everybody stay where you are and you won't get hurt.' . . . He went with an ax and he chopped up the pinball machine and he chopped up the pool table. . . . Then a little later I got another telephone call from another location. They had done the same thing. . . . A little while later I got a call from another one. They chopped up another one.

"Well, with that I pulled down my equipment and went out of that business, just pulled them into the office. We didn't sell out or let anybody else have them. We just pulled them in. I turned around and sold the machines." *Id.* at 785-87.

From the testimony of those few who have had the courage to resist the pressures exerted by organized crime, a picture can be drawn of the threats and violence which are the backbone of every campaign to monopolize a legitimate industry. The result in most industries is typified by the reaction of legitimate operators in the coin machine industry.

"In many of the metropolitan areas, reputable businessmen who have been in the industry for many many years are just throwing up their hands and getting out, because they cannot do business on the terms they

their purchases to the organization owned or sponsored suppliers.⁴⁵ Thus, every natural economic impulse is repressed, and the market is regimented to serve the purposes of organized crime rather than to benefit the consuming public.

Monopoly, great or small, nation-wide or city-wide, is the deadly enemy of free enterprise. Organized crime, as one of the most active monopolizers⁴⁶ in the American economy, is an unwelcome trespasser on the preserve of legitimate business enterprise. Its effect is even more unwholesome than other monopolies because its monopoly position will not rest upon any demonstrated superiority as an economic unit, but upon its expertise in physical violence. Where other enterprises overcome competitors by underselling them, a criminal organization eliminates them by imposing a reign of terror. As a result, the American economy can suffer additional loss as efficient producers and distributors are driven out not by more efficient monopolies but by less efficient ones, merely because the latter are backed by a criminal organization.⁴⁷

Thus far, criminal organizations have managed to substitute their own peculiar form of regulated economy for free competition in a variety of industries.⁴⁸ On the whole, organized crime has been able to achieve a stranglehold over any given

have to to compete with people who have hoodlum connections." *Id.* at 741.

⁴⁵ "In Kansas City, Wolf Riman, before his murder, successfully pressured tavern owners into using his juke-box machines. . . ." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 179.

In the case of customers, more subtle measures short of violence ordinarily suffice to induce a shift from a legitimate supplier to an organization supplier. The threat of picketing by a captive union or the withdrawal of some essential service already monopolized by a criminal organization will be highly persuasive to a consumer who has much less at stake than the organization's competitors. These techniques are described in Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 736-37, 824.

⁴⁶ "Monopoly is the key to big money in criminal activity. It is also sought by mobsters when they enter legitimate business." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 170.

⁴⁷ "There can be little doubt that the public suffers from gangster penetration into legitimate business. It suffers because higher prices must be paid for articles and services which it must buy. . . . The public suffers because it may have to put up with shoddy and inferior merchandise in fields where gangsters have been able to obtain a monopoly. One such olive-oil dealer, Joseph Profaci, was cited for a series of violations of the pure food and drug laws including one for which he was fined \$12,000." Senate Special Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 171.

⁴⁸ See notes 31 to 38 *supra* and accompanying text.

product on a metropolitan basis, but not throughout the nation. These local monopolies have a severe enough impact on the economy. However, the dominance of criminal organizations in some industries, such as the distribution of juke boxes, has become so prevalent in virtually all metropolitan areas as to amount to a nation-wide monopoly.⁴⁹ The power of organized crime and its pernicious influence over both local and national markets already has attained dangerous proportions. And its power and influence are increasing. Each year finds new industries and new markets transformed from a free competitive basis to the control of monopolies owned or sponsored by organized crime.

C. The Infliction of Physical Injury and Death

The foregoing represents merely the economic cost of organized crime. What of the human cost—the broken bones, the acid-scarred faces, the nerve-shattering fear, the bullet-riddled bodies—which the terror tactics of organized crime add to the total bill? Although the frequency of out-right gangland killings has diminished considerably from the strong-arm heyday of Al Capone, organized crime is still responsible for a much larger proportion of murders than any other element of equal size in our society.⁵⁰ While as many as 70 gangland killings occurred annually in Chicago during the 1920's,⁵¹ the decrease to fifteen in 1961⁵² does not

⁴⁹ "One of the very significant characteristics of the entire (jukebox) industry is the permeation of racket figures in it. No matter where you go, you are almost certain to find that leading operators in various areas are hoodlums, and they are people with racket connections and they are people with police records." Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 741.

⁵⁰ It is not only the number of murders caused by organized crime gangland killings which makes them of special concern to the nation; it is also the fact that they are murders committed with impunity.

"Of the 296 murder offenses reported in 1957 to the Chicago police, 260, or 87.8 percent, were cleared by arrest. Nationally, about nine out of ten murders are solved through arrest. The average murder case presents few problems to the police and is readily solved. Unfortunately, this picture changes sharply, however, when considering murders committed by . . . professional killers. Such cases present the police with few tangible clues and too frequently remain unsolved." PETERSON, A REPORT ON CHICAGO CRIME FOR 1957, at 3 (1958).

"[T]hroughout the thirty-nine year period from 1919 through 1957, only 17 persons have been convicted in connection with 926 gang murders committed. Hence, for every hundred gang killings, an average of only 1.8 persons were convicted." *Id.* at 28.

⁵¹ *Ibid.* The report lists 76 gang killings for the single year 1926.

exactly warrant the presentation of good conduct medals to the organization overlords. The diminishing murder statistic does not herald a purge of the instinct for violence from the nature of organized crime. It is attributable principally to a decline in inter-gang warfare and the consolidation of criminal power in the hands of a few large cooperating criminal organizations.⁵³ A secondary and lesser factor contributing to the diminished incidence of murder is the persuasive influence of the reputation for violence which organized crime carries with it. The whispered name of a gangster chieftain often will instill as much fear in the hearer as brandishing a loaded revolver in his face.⁵⁴

Despite the apparent statistical trend toward less violent business techniques, organized crime probably represents at least as large a threat as it formerly did to the lives and health of persons outside the underworld. Where most of the victims of gangland bullets in the 1920's and 1930's were members of rival gangs, most of the current victims are potential witnesses against the organization,⁵⁵ threatened businessmen and labor leaders

⁵² PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 27 (1962). Incidentally, this is the highest total of gangland killings recorded in Chicago since 1935. *Ibid.*

⁵³ "As the years went by and the mobsters grew suaver and more experienced they realized that killings were not only bad business but bad public relations, that 'in union there is strength.' Gradually they got together, they toned down on the violence and . . . began reaching more or less peaceful agreements on divisions of territory and 'spheres of influence.'" KEEAUVER, *op. cit. supra* note 7, at 12, 13.

⁵⁴ This factor is illustrated by an exchange between Chief Counsel Kennedy and Detective Captain Richard Hackmeyer of the St. Louis Police Department during the McClellan committee hearings.

"MR. KENNEDY. It would not be necessary, really, to use violence to a location owner in the St. Louis area, if you told him that either John Vitale or Buster Wortman were behind the operation.

"CAPTAIN HACKMEYER. The reputation, sir, carries great weight, and is hardly necessary to even indicate any muscle. . . .

"To give you an idea of the reputation founded or unfounded, one location owner, when I asked him why he didn't change since he complained about the reputation of these people in there, and he felt he was being shorted on his cut from the cigarette machine, he said, 'You fight the Mafia, not me.' . . ." Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 738.

⁵⁵ A few examples gleaned from crime commission reports and committee hearings of witnesses, police, and informers struck down in gangland fashion include:

"Vito Genovese, Mike Miranda, Gus Frasca, and George Smurra were all indicted for . . . murder. . . . Before he could be arrested on the indictment, Genovese disappeared and later turned up in Italy. . . . While in Italy, one of the key witnesses . . . was murdered; a second died under the most mysterious circumstances

who refuse to quake,⁵⁶ borrowers from loan shark

(poisoning while in jail)." Senate Select Comm., FINAL REPORT, *op. cit. supra* note 6, at 500.

"Carl Carramusa, who testified for the Government in [a] Kansas City narcotics trial, was shot to death 3 years later in Chicago where he had gone to escape retribution by the Mafia. Thomas Buffa, who testified for the Government in a collateral matter affecting the narcotics trial, fled to California after an attempt had been made on his life, but was shot to death in California in 1946." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 38.

"Evidence of obstruction of justice by violence was found in the shocking shotgun murder of Attorney Sam Rummel. His voice was forever silenced on December 11, 1950, the day following a conference with Sheriff's officers Guasti and Pearson. . . .

"In another case, law-enforcement officers found their path to conviction for narcotic violations of the notorious Sica Brothers blocked by the gang murder of Abraham Davidian, the man considered by the prosecution to be the key witness and 'sine qua non' to conviction." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 96.

"On March 28, 1960, the nude body of forty-two-year-old Arthur Adler . . . was found stuffed in a sewer . . . in Chicago. . . . In October, 1959, Adler had been called to testify before a special federal grand jury that was investigating alleged connections of the Capone syndicate with Chicago's night club business. Several months earlier Joseph Bronge, a Melrose Park, Illinois, beer distributor, who had appeared before the same grand jury, was shot and killed in typical gangland fashion.

"On February 9, 1960, Herman Posner, a seventy-two-year-old moving picture projectionist, was killed . . . just a few hours before Posner was scheduled to turn over to the Federal Government evidence of gangland racketeering in Local 110 of the Chicago Moving Picture Operators Union." PETERSON, A REPORT ON CHICAGO CRIME FOR 1960, at 53-54 (1961).

"On November 16, 1961, forty-three-year-old John Hennigan was shotgunned to death across the street from his home. . . . It was reported that Hennigan had served as an informer for the State's Attorney's office." PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 36 (1962).

⁵⁶ Examples of killings involving this class of victim include the following from the bloody annals of recent Chicago crime.

"[I]n 1956 . . . Capone gang boss, Tony Accardo, was placed on the payroll of Premium Beer Sales, Inc., at a salary of \$65,000 a year. Subsequently whenever Bronge or other distributors wanted Fox Head Beer they found it necessary to make the deal with Premium.

"On Sunday, July, 1959, as Joseph Bronge left his distributing firm's offices . . . he was confronted by two gunmen who opened fire on him. He remained in critical condition until he died on November 6, 1959." PETERSON, A REPORT ON CHICAGO CRIME FOR 1959, at 29 (1960).

"On September 4, 1957, the bullet riddled body of James DeRosa, a pinball machine operator in downstate Illinois, was found on a farm near Springfield, Illinois." PETERSON, A REPORT ON CHICAGO CRIME FOR 1957, at 23 (1958).

"Perhaps the most significant gangland type killing of the year (1961) occurred . . . when fifty-five year old John A. Kilpatrick, international president of the United Industrial Workers of America, was found shot

enterprises who fail to repay their loans,⁵⁷ or persons on the fringe of organized crime who in one way or another had a falling out with the organization leadership. The destructive energies of organized crime are no longer dissipated on internal strife; they are concentrated on its outside enemies.⁵⁸ Moreover, there is no evidence that the decrease in the number of murders has been accompanied by a diminished propensity to commit lesser forms of mayhem. A battered, bruised and frightened adversary is usually as good as a dead one. He will not squeal, he will not oppose; he will obey. Consequently, organized crime is ordinarily satisfied to maim instead of murder.

to death in his car. . . . Kilpatrick had engaged in court battles against Capone syndicate hoodlum Angelo Inciso who was president of Amalgamated Local 286, United Industrial Workers of America." PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 32 (1962).

⁵⁷ This is becoming a more frequent motive for gangland killing because of the rapid growth of organized crime's interest in "shylocking." This trend is evidenced by the pattern of these murders reported in Chicago for the year 1961.

"[O]n March 31, 1961, thirty-eight year old John Arthur Powers was about to enter his basement apartment . . . when he was ambushed by gunmen, shot five times and killed. . . . Shortly before his death he had confided to friends that he owed \$1,800 to the "Outfit," a name frequently applied to the syndicate." PETERSON, A REPORT ON CHICAGO CRIME FOR 1961, at 27 (1962).

"On June 13, 1961, the body of thirty-nine year old L. C. Smith, a Negro, . . . was found in his parked car. . . . [T]here were reports that the slaying may have stemmed from underworld loan sharks known as 'juice men' who loan money . . . at usurious interest rates." *Id.* at 28-29.

"On June 20, 1961, the battered body of fifty-seven year old Ralph Del Genio was found by police in an automobile. . . .

"According to a relative, Del Genio had gambled heavily in Cicero gambling joints and was deeply in debt to crime syndicate loan sharks. . . ." *Id.* at 30.

⁵⁸ This shift in emphasis is evident from the composition of gangland murders attributable to professional killers in Chicago during 1961. As the Chicago Crime Commission reports:

" . . . Although only one of the fifteen gangland type killings in the Chicago area in 1962 was solved, an analysis of available information reveals certain significant facts. . . .

"Two victims had connections with the narcotics racket, one as an addict and the other as a big dope peddler as well as a gambling house proprietor. At least five of the victims, and possible others, had either been dealing with syndicate 'loan sharks,' known as 'juice men,' or were making collections for them. Two of the victims had allegedly served as informers, while another had been responsible for bringing his girl friend to gatherings of mobsters after which she furnished information to officials. At least two victims were connected with the cigarette vending machine business. The gang killing in 1961 which is considered solved, definitely stemmed from the victim's fight against a syndicate labor racketeer." *Id.* at 36.

Nor is the physical toll taken by organized crime confined to the shootings and beatings deliberately administered by hired strong-arm specialists. Hundreds of deaths and thousands of illnesses are traceable to the narcotics which criminal organizations distribute.⁵⁹

D. Deliberate Expansion of Vice

Organized crime is never satisfied to minister to existing levels of human weakness in the areas of gambling, commercial sex, and narcotics. An organization has an economic stake in expanding the market for its illegal products. Often men are employed to "steer" potential customers to gambling casinos and prostitutes. A frequent procedure is for one of these men to mix with conventioners, buy them a few drinks, and entice them into accompanying him to "a better place." The "better place" invariably is a gambling casino or house of prostitution from which the conventioners will emerge not better but poorer. Thus, people who had no inclination before the evening began of indulging in either of these activities are inveigled into participation by the deliberate efforts of salesmen for the organization's "products." And this pattern and purpose are repeated in myriad forms in its promotional campaign for these products.

However, nothing in the areas of gambling or prostitution approximates the ruthless methods employed to develop the drug market.⁶⁰ It is not merely coincidental that the men who retail illicit narcotics are called dope *pushers*. Here the effort is concentrated on "hooking" the most susceptible and unsophisticated element of our population—teenagers.⁶¹ Many lifelong addicts can trace their

⁵⁹ The death toll from narcotics in New York City alone during the period 1946-1954 has been reported by the Chief Medical Examiner of that city as follows:

1946—11 deaths	1951—77 deaths
1947—19 deaths	1952—122 deaths
1948—17 deaths	1953—100 deaths
1949—32 deaths	1954—102 deaths
1950—56 deaths	

Hearings Before the Subcommittee on Improvements in the Federal Criminal Code, supra note 6, at 1910.

The physical toll which narcotic drugs exact from living addicts is detailed in a Philadelphia Police Department pamphlet reprinted in the Daniels Committee hearings. See *id.* at 601-603.

⁶⁰ "From the available information it appears that the narcotics traffic in this country after a slow but steady decline for a generation has recently shown a sharp upsurge." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 168.

⁶¹ "A most disquieting feature is that in several localities, principally in large cities, a substantial proportion of the new addicts are young people, persons in their late 'teens and early 20's. At the present time

lifelong miseries to a free marihuana cigarette offered by a "friendly stranger"⁶² and puffed surreptitiously in the schoolyard before class or during recess.⁶³

As the result of organized crime's self-serving and cruel exploitation of its illegal markets, to the extent it is successful, America is destined to have an ever-increasing population of narcotics addicts, habitual gamblers, and devotees of commercialized sex. Organized crime should never be allowed the moral defense that its illegal activities merely fill the natural and unnatural existing needs of certain members of the populace, because organized crime consciously and systematically strives to sow and cultivate these needs.

E. *The Encouragement of Derivative Criminal Conduct Among Other Persons*

Many of the illegal products and services marketed by organized crime carry with them a dangerous by-product of crime. This is over and above the crimes committed by the criminal organization itself in distributing the forbidden commodity. Rather, these are the crimes which the consumers—or probably more accurately the victims—of these products and services commit.

For example, patrons of organized crime's largest selling service, gambling, sometimes are forced by

this phase of the narcotic problem is a matter of acute public interest and widespread alarm." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 165.

⁶² "Against this backdrop of tragedy, the picture of the dope peddler promoting drug addiction in order to create new customers is nothing short of revolting. . . .

"The professional non-addict peddlers told of giving 'for free' enough heroin to get new customers 'hooked', i.e., dependent on drugs; and of employing addicts as 'testers' to judge the quality of the merchandise at the wholesale level." Special Senate Comm., FINAL REPORT, *op. cit. supra* note 6, at 24.

"The United States Public Health Service Hospital at Lexington, Ky., . . . compared the year 1946 when patients below the age of 21 represented 3 percent of the patients in the hospital, with the early part of 1951 when, with a higher total patient count, the proportion of young patients had climbed to 18 percent." *Id.* at 27.

⁶³ "A boy of 19, of a decent family, was snared by a pusher who gave him a trial capsule of heroin free and taught him how to use it. Within a few weeks the boy was a confirmed addict, his craving for the drug rapidly increasing. . . . Many thousands of such cases go into police department files all over the country every year. Details vary, but the fundamental pattern of the addict's creation and subsequent behavior is almost always the same." SONDERN, *op. cit. supra* note 7, at 72-73. Case histories of the cultivation of addicts form a large portion of the testimony recorded before the Daniels Committee investigation into the narcotics traffic. See *Hearings Before the Subcommittee on Improvements in the Federal Criminal Code, supra*, note 6.

Lady Luck to engage in secondary criminal conduct. In order to recoup heavy losses sustained in a gambling casino, and to play again, patrons often resort to larceny, embezzlement, or similar crimes. In fact, gambling has been cited as the leading cause of embezzlement.⁶⁴ However, the volume of secondary crime triggered by gambling does not appear to approach the magnitude which the narcotics traffic sponsors. It has been estimated that no less than half of the crimes committed in our largest metropolitan areas are attributable directly to narcotics.⁶⁵ These crimes range the full gamut from larceny and robbery to rape and murder.⁶⁶ Some are committed under the influence of narcotics; others are committed by addicts in order to obtain the funds necessary to maintain their expensive habit.⁶⁷ Whichever the causal link,

⁶⁴ "Surety companies throughout the United States list gambling as the principal cause of their large losses arising out of embezzlement cases." PETERSON, GAMBLING—SHOULD IT BE LEGALIZED? 121 (1951). See, Peterson, *Why Honest People Steal*, 38 J. CRIM. L. & C. 94 (1947). Peterson cites two examples of embezzlement by bank tellers in Chicago in the space of two weeks as "illustrative of thousands of cases where the gambling mania has led respectable citizens into crime and disgrace."

"Even trusted employees with long records of service, who have suddenly become addicted to gambling, step out of character completely by committing a holdup or a burglary to stave off financial despair or disgrace. . . . On August 9, 1949, a highly respected teller of a Chicago suburb bank confessed that he had embezzled \$43,543 from his employer during the preceding 18 months to gamble on the horse races. . . . And hardly had the prison doors closed on this man before a teller of a south side Chicago bank confessed to the embezzlement of over \$2,000 which he had squandered in neighborhood handbooks." *Ibid.*

⁶⁵ Estimates given to the Daniels Committee concerning the proportion of crime attributable to the narcotics traffic and drug addiction ranged from 30% in New York City to 75% in Houston, Texas. Most averaged around 50%. See, *Hearings Before the Subcommittee on Improvements in the Federal Criminal Code, supra* note 6, at 2393, 2711, 4185, 4200.

⁶⁶ Since heroin and morphine are depressants rather than stimulants, most crimes of violence committed under the influence of drugs have involved marihuana or cocaine. One such instance was cited to the Daniels Committee by the Dallas, Texas, Chief of Police.

"A few years ago we had 2 brothers, the Allen brothers, . . . committed a series of robberies, striking particularly against the operators of liquor stores. They killed 4 or 5 people. And in their statement to Captain Fritz after their apprehension they admitted that before going out on each job, they would smoke a couple of marihuana cigarettes to put them in the right frame of mind to commit those crimes." *Id.* at 2968.

⁶⁷ "In one city alone, a civic crime-prevention group, in its study of the narcotics problem, estimated that the value of property stolen annually to provide the addicts with funds to buy dope is \$60,000,000." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 165.

organized crime is fully responsible for the resultant harm to the ultimate victims of these secondary crimes. For their own profit, criminal organizations unleash forces which have a predictable and inevitable concomitant of extensive and violent crime. Therefore, the businessman who is robbed or the teen-age girl who is raped by a narcotics addict is as much the victim of organized crime as the addict himself or a person deliberately struck down by a fusillade from hired gangland killers.

F. *The Corruption of Amateur and Professional Athletics*

Of the billions wagered annually with the gambling outlets of organized crime, the biggest percentage is risked on the outcome of various major athletic events.⁶⁸ Horseracing, baseball, basketball, football, and boxing are among the sports which attract bettors by the million and their dollars by the billion. The operation of the various betting pools is structured to afford organized crime a guaranteed proportion of the money wagered.⁶⁹ This profit margin is large; but not large enough to satiate the greed of many organization leaders. An untold and certain additional profit can be siphoned into an organization's treasury if the outcome of the athletic event is known to the organization before it occurs. Thus elements of organized crime constantly engage in efforts to achieve control over the participants in these contests so that they can determine the winner and the margin of victory.

In past decades the results of horse races were often influenced by the administration of drugs to some of the horses participating in racing meets.⁷⁰ More sophisticated and sustained methods must be employed to control the performance in sports such as boxing and baseball which feature human competitors. The leading performers must be scouted for those few who will be particularly susceptible to monetary inducements. A contact is then made, often through the medium of a present or former teammate of the subject, one who has

previously succumbed to the lure of promised riches. Once hooked, an athlete is led by easy stages from deliberately poor performances through "point-shaving" to "throwing a game" or "taking a fall."⁷¹

When a criminal organization succeeds in subverting some key participants in an athletic contest and thereby is able to determine the outcome, it is in a position to defraud the other persons who wager their money on the event. An organization can make a 100-to-1 underdog a sure victor and obtain a tremendous return on its own wagers. The reward to the player for rigging an important game is normally a few hundred dollars; the reward to organized crime may be measured in hundreds of thousands of dollars. The bettors defrauded by such a scheme will not necessarily be limited to those who place their wagers with illegal establishments; it may victimize many who patronize only legitimate outlets such as on-track parimutuel windows.

It may be difficult to be overly sympathetic about the plight of defrauded bettors, even those who confine their gambling to legalized establishments. However, the rigging of athletic contests inflicts a much more grievous injury than monetary loss on others in society. It destroys the devotion and eventually the interest of the general public in the corrupted sport. Rabid fans evolve into neutral spectators and ultimately abandon watching the contests entirely, feeling that they may be following a mere play contest the outcome of which has been plotted in advance. Baseball tottered noticeably on its throne as the national pastime when Arnold Rothstein, a leading New York gambler, succeeded in bribing the backbone of the American League champion Chicago White Sox to throw the 1919 World Series, giving rise to the infamous "Blacksox" scandal.⁷² Professional box-

⁷¹ A description of how some athletes have been corrupted can be found in Cobane, *The Gambler's Fix Menaces Sports*, Look Magazine, April 29, 1947.

⁷² An account of this tragic event is contained in KATCHER, *THE BIG BANKROLL: THE LIFE AND TIMES OF ARNOLD ROTHSTEIN* 139-50 (1959). The effect of this scandal on professional baseball was summarized by Virgil Peterson. "The Black Sox scandal in 1919 almost ruined major league baseball. . . . Several outstanding stars were banned from the game for life and organized baseball appointed a Federal Judge, Kenesaw Mountain Landis, to act as czar of the game." The shadow of the scandal lingered over the sport for many decades. Peterson relates: "At the annual meetings of the American and National baseball leagues held in December, 1947, much time was devoted to the gambling problems. The presidents of both leagues indicated that strong steps would be taken to keep gamblers out of

⁶⁸ It has been estimated that Americans annually bet six billion dollars on baseball, one billion on football, one billion on basketball and six billion on horseracing. BELL, *op. cit. supra* note 11, at 133.

⁶⁹ "[T]here should be no occasion for cheating in professional gambling establishments since they operate on a percentage basis which makes it impossible for patrons to win in the long run." PETERSON, *GAMBLING, SHOULD IT BE LEGALIZED?* 20 (1951).

⁷⁰ "There have been times when the practice of stimulating race horses with drugs has become widespread." *Id.* at 25.

ing, once an important spectator sport to millions of Americans, has deservedly acquired such a reputation for fixed bouts⁷³ that it absorbs the interest of but a small minority of the populace and is threatened with virtual extinction. Basketball and football have been rocked in recent years by bribery scandals, at both the college and professional levels.⁷⁴ However, thus far these scandals have not been so prevalent as to destroy the belief of the general public in the essential honesty of most contestants or caused them to doubt that most football and basketball games are truly contests. But the threat is there, in the form of organized crime, whose insatiable lust for riches could push other national sports down the same road as boxing into oblivion.

G. The Subversion of Democratic Institutions

In order to shield its anti-social activities from the wrath of an avenging society, organized crime

the ball parks. Just before the opening of the 1947 baseball season the owners of the three New York baseball clubs made a public statement in which a warning was issued to gamblers. It was frankly admitted that baseball could not long survive contamination by professional gamblers." PETERSON, GAMBLING, SHOULD IT BE LEGALIZED? 30 (1951).

⁷³ "Hearings held in 1960 before the United States Senate Subcommittee on Antitrust and Monopoly brought out in bold relief the sinister influence which Frank Carbo and other underworld characters have exerted on professional boxing in America. . . . [Carbo's] performers, or those he controls, continue to appear in major arenas, and their antics are truly astonishing, particularly when the betting odds are 'right.'" PETERSON, A REPORT ON CHICAGO CRIME FOR 1960, at 65 (1961).

⁷⁴ "During 1945 and 1946 several scandals involving sports came to light. In December, 1946, an effort was made to fix the championship professional football game between the New York Giants and the Chicago Bears." PETERSON, *op. cit. supra* note 69, at 30. More recently, grand juries in New York and North Carolina returned indictments against several leading figures in organized crime who had arranged to bribe scores of college basketball players to fix the outcome of Atlantic Coast Conference games and other key contests along the eastern seaboard. The Washington Post, Jan. 10, 1962, at B 10. The Kefauver Committee likewise alluded to this process. "Brodson [a leading Milwaukee gambler] explained the 'spread system' of basketball betting under which it is possible for a bookie to win both ends of bets on college basketball games if one team beats another by a score falling within the spread which may run from 2 to 7 points. Brodson readily conceded that this practice unquestionably contributed toward the corruption of college basketball players who could be talked into controlling the score of a game so that it ended within the spread and yet won the game for the school they represented. The transition from this state of moral destruction in youth to the point where a player would accept money to throw the game completely became, thereafter, relatively simple." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 161.

endeavors to capture or at least neutralize those who are charged with enforcing society's laws.⁷⁵ At various times criminal organizations have been a dominant political force in metropolitan centers such as New York,⁷⁶ Chicago,⁷⁷ Miami⁷⁸ and New Orleans. Only fortuitous circumstance thwarted attempts to completely take over Portland⁷⁹ and Kansas City.⁸⁰ In addition, many smaller com-

⁷⁵ "The attempt to paralyze law enforcement by political means is encountered again and again in the testimony before the committee." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 185.

⁷⁶ "Costello reached the height of his power in New York politics in 1942 when he unquestionably had complete domination over Tammany Hall. . . . The wiretaps in particular gave a vivid picture of Frank Costello as a political boss and an underworld emperor. . . . They reveal him as a king maker who received calls not only from Judge Aurelio, but also from Judge Savarese, from Loscalzo, whom O'Dwyer later appointed a judge, and a large assortment of other political figures. All showed the utmost deference for the ruler." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 122.

"Mobster Joe Adonis' influence upon the Kings County (Brooklyn, N.Y.) Democratic organization may go far to explain why neither he nor a major subordinate like Anastasia was ever subjected to prosecution and punishment." *Id.* at 185.

⁷⁷ "Capone, in his heyday, with an estimated annual income of \$250,000,000 from the gambling racket alone, was one of the big political bosses of the city. In one election campaign, Capone reputedly made a political contribution of \$250,000 to help elect a mayor." PETERSON, *op. cit. supra* note 6, at 37.

⁷⁸ "S and G [a large Miami area gambling syndicate] has had a firm grip on the Miami Beach City Council, which controls the city manager and the police department. At least one member of the city council has had extensive and profitable business transactions with one member of the S and G Syndicate. The city council never took any action to interfere with the operations of the syndicate. The police feared to act without instructions from above." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 11.

⁷⁹ The McClellan Committee delved into this attempted takeover of Portland.

"Involved in this conspiracy was the control of bookmaking, other gambling, prostitution, punch-board and pinball operations. The conspiracy extended to the splitting of profits on underworld activities and the combined effort of the teamsters and the Portland underworld to control public officials, principally the district attorney of the City of Portland, William Langley." Senate Select Comm., INTERIM REPORT, *op. cit. supra* note 6, at 7.

"Were it not that the conspirators in this particular case had a falling out, the Committee believes that gambling and law enforcement in Portland would now be completely under the domination of a teamster-backed underworld." *Id.* at 39.

⁸⁰ "The Kefauver Committee report documents the attempt of Charles Binaggio, a leading Kansas City racketeer, to name the police commissioner and police chief for Kansas City by supporting the candidacy of Forrest Smith for Governor. Smith was elected and did nominate two police commissioners acceptable to Binaggio. However, the resultant burst of publicity was so bright that it was not feasible to open up the

munities such as Cicero, Illinois,⁸¹ and Reading, Pennsylvania,⁸² have become virtual baronies of organized crime. Even high ranking state officials occasionally have been allied with organized crime.⁸³ Our democratic institutions suffer both in the attainment of such influence by organized crime and in the methods to which it resorts in achieving that position.

A political organization, legislator, police force, prosecutor's office, or judiciary which owes allegiance to organized crime cannot render proper service to the public. The spectacle of a public servant under the control of men who make a business of disobeying the laws which he is sworn to uphold is inconsistent with the fair administration of justice. When a newly elected judge in

city to gambling, and the incumbent police chief, whom Binaggio had been most anxious to replace, remained in office. Shortly thereafter, Binaggio and his chief lieutenant were murdered in gangland fashion allegedly for failing to deliver to the organization the wide open Kansas City he had promised." PETERSON, *op. cit. supra* note 64, at 15-17.

⁸¹ "The principal cancerous spot in the county, as it has been for decades, is Cicero. Notorious gambling joints from which Capone gang leaders admittedly have amassed huge fortunes continue to flourish here. While primary responsibility for decent law enforcement in that municipality rests with the local officers, they either cannot or will not assume their sworn duties." PETERSON, A REPORT ON CHICAGO CRIME FOR 1955, at 4 (1956). "When members of the state's attorney's staff also investigated conditions in Cicero they were brazenly intimidated by the hoodlums who operated gambling joints there." *Id.* at 11.

⁸² "The Committee has no difficulty, after reviewing the Reading testimony and particularly that of Chief Birney, in arriving at the conclusion that Reading is a classic example of political strangulation of a police department at the behest of gambling interests seeking to thwart any interference with their activities." Special Senate Comm., FINAL REPORT, *op. cit. supra* note 6, at 61.

⁸³ The Attorney General of North Dakota was successfully prosecuted for agreeing to allow one organization's slot machines to be distributed in his state, where such machines are unlawful. See *Nilva v. United States*, 227 F.2d 74, 75-76 (8th Cir. 1955).

In Florida, after investigating the sudden state crackdown on gambling establishments controlled by the local S and G syndicate, which allowed the Chicago organization to become established in the Miami area, the Kefauver Committee concluded that: "There is more than a casual connection between the fact that [a front man for the Chicago organization], contributed \$100,000 to Governor Warren's campaign fund and the fact that [the special state prosecutor] raided only S and G locations. . . ." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 33.

In California, there was evidence of an attempt to establish a statewide protection system for slot machines and the distribution of punchboards. "Representatives of the attorney general's office, with the apparent blessing of Fred Howser, the attorney general, attempted to organize a State-wide system of protection for slot-machine operations and for the distribution of punchboards." *Id.* SECOND INTERIM REPORT, at 26.

New York City pledged undying loyalty to Frank Costello, the leading mobster in the city, for procuring his selection to the bench,⁸⁴ he placed his office at the disposal of a man who had a vested stake in an unjust settlement of many matters which would come before the judge. When the organization requests, a man in such a position must protect hoodlums who have committed gambling and narcotic offenses and even murder at the behest of organized crime.⁸⁵ He is no longer a public servant, selected by and accountable to a majority of the people, as democracy demands; he is the employee of a small class of successful criminals.

The men attracted to such captive positions will be neither the most competent nor the most honest that society has to offer. Thus, the public is shortchanged in the quality of the decisions made and services rendered in areas entrusted to government.⁸⁶ Moreover, accustomed to accepting bribes from a criminal organization, many of these public servants begin to expect side payments from everyone as part of their compensation for acts done in the line of duty.⁸⁷ And, if the public official's duty requires a choice between two competing claimants, he will lean heavily toward the side which offers the greatest under-the-table reward rather than the one whose claim is superior in merit. In many cities, political organizations dominated by or-

⁸⁴ This event and its background are described in Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 122.

⁸⁵ "[O]nce corrupted in areas of commercial illegality, the corrupt official must continue his illegal cooperation with the syndicate even when it engages in the most vicious underworld enforcement violence, such as a gang murder, or the beating of a defaulting debtor in a loan shark operation." Special Group on Organized Crime, *supra* note 15, at 105.

⁸⁶ "The failure to act against the criminals who run gambling and vice enterprises is reflected in law enforcement inefficiency in dealing with other types of crimes. . . . The creeping paralysis of law enforcement which results from a failure to enforce the gambling laws spreads to other types of crimes and leads to a general breakdown in law enforcement." ABA, *op. cit. supra* note 16, at 15.

⁸⁷ The Chicago Crime Commission reports the effect of having this type of person in public service: "[O]n May 26, 1953, State's Attorney Gutknecht called a meeting of bailiffs, clerks, deputy sheriffs, bondsmen, assistant state's attorneys and others connected with the administration of justice in the Criminal Court Building. He forthrightly told this assemblage that a stop must be placed on the practices of extorting or paying money to see defendants in the bull-pen, paying money to write bonds or to call cases out of order, . . . and selling favors instead of freely performing those lawful services that are the rights of all litigants." PETERSON, A REPORT ON CHICAGO CRIME FOR 1953, at 16 (1954).

ganized crime have peopled the local government with minor hoodlums and ex-convicts. The government thus loses any sense of allegiance to the public or to the moral standards which good government demands.⁸⁸

Not only does an organization-dominated government become an inappropriate vehicle for the administration of a democracy, but the election process itself, the essence of the democratic system, often is perverted by organized crime to insure the victory of its candidates. Unwilling to trust its future to the whims of an honest election, organized crime and its political allies have bribed and threatened voters, stuffed ballot boxes, and rigged the counting of votes.⁸⁹ Thus, thousands of persons are defrauded of their most precious right as a citizen in a democracy, the right to cast a vote which will count equally with those of other members of society in determining the makeup of the body which will govern them.

The political power of organized crime has surged and waned in American cities according to the temper of the people. When sufficiently ired by the unholy alliance between gangster and politician, the victimized majority will rise up and sweep a reform ticket into power. If true to its pledge, the reform group will purge the government of the incompetent and the corrupt and return it to the service of the people. However, the traditional pattern in most cities has been a return of criminal influence in the municipal government after the

reform fervor has subsided. Either by conquest or subversion, the local criminal organization slips back to reclaim its share of political power and installs some of its own at key positions in the government.⁹⁰ Close on the heels of this development, the cycle of inefficiency, corruption and rigged election practices resumes.

H. *The Undermining of Basic Moral Supports*

The preservation of a law-abiding society rests on the principle of rewarding general conformity to society's basic standards and punishing non-conformity. If the highest rewards go to those who openly disregard the law, and those who conform to these basic standards receive only the leavings, this is bound to shake the morale of the law-abiding. It will be difficult for them to appreciate the utility of scrupulously obeying the law, when those who flaunt the law garner the gold.

Each gangland overlord who is able to live for decades in open splendor and open defiance of the law serves as an object lesson in the virtues of immorality. Unlike burglars, con men, and other criminals who ply their trade in secret and for whom discovery usually means disaster, organized crime operates in the open and depends upon its purchased immunity for protection.⁹¹ Consequently, whereas successful burglars, for example, by the very *secrecy* of their success, have very little impact on the morale and morality of the essentially law-abiding, organized crime, by its very

⁸⁸ "As Pendergast's aide Lazia [gambling czar of Kansas City] controlled the city police department. By 1934 he had placed on the payroll of that law enforcement agency over 60 ex-convicts. In fact, one out of every 10 men of the police department had a criminal record. Kidnappers, robbers, and murderers descended upon Kansas City. The people were helpless. The law violators were in control of the law enforcers." PETERSON, *op. cit. supra* note 63, at 15.

⁸⁹ The subversion of the election process reached a new high in Chicago under Al Capone. "In one election campaign, Capone reputedly made a political contribution of \$250,000 to help elect a mayor. Bombings and gang killings were commonplace in political campaigns. Vote-buying and vote-stealing reached amazing proportions. On election day, April 1, 1924, the Capone gang, hungry for more power and without fear of any duly constituted authority, conducted an armed invasion of Cicero, Illinois. Gangsters under the personal leadership of Al Capone, terrorized the entire town from dawn to dusk. Polling places were manned with machine guns. Citizens, policemen, and even a few gangsters, were slugged, shot and killed. It is needless to mention that Al Capone's candidate was elected." *Id.* at 37. Although these extremes of violence no longer characterize elections in cities with powerful criminal organizations, the more subtle techniques of vote buying and ballot stuffing still prevail.

⁹⁰ The resurgence of criminal power in Kansas City after the reform reaction to Boss Tom Pendergast's corrupt administration exemplifies this pattern.

"Following the gang slaying of Lazia in 1934 and the subsequent Federal prosecution and conviction of Boss Tom Pendergast and numerous satellites in the late 1930's the public became aroused. Reform administrations gained control of the local government. Binaggio's career was temporarily retarded. It was during this period, however, that he was laying the groundwork for the future. . . . Binaggio's power was to gain momentum until he was to wrest control of this area from Jim Pendergast, successor to Boss Tom Men with political aspirations sought his assistance. None dared to repudiate his support. . . . In 1948. . . Binaggio threw the support of his organization to Forrest Smith who was elected governor of the state. And almost as soon as the votes were counted it was apparent that the gambling king of Kansas City was to be a man of influence in state affairs." *Id.* at 15-16.

⁹¹ "Most of the top mobsters in various communities are well known to both law enforcement agencies and the general public. In some instances they may have been subjected to prosecution and punishment in earlier stages of their careers. But once they attain top positions in the rackets, they achieve a high degree of immunity from punishment for their criminal operations." ABA, *op. cit. supra* note 16, at 13.

openness and publicity, advertises the profitability of evil.

This example is especially corruptive of the group most susceptible to becoming law-breakers: youth in low income areas.⁹² With the law-abiding road which stretches before them strewn with obstacles and but slim hope of reward, the clear view of a path paved with gold at but slim risk of punishment is very tempting. Undoubtedly, many of this group are lured into a life of crime by what organized crime teaches about reward and punishment in our society.⁹³ But the corrosive effect of this example is not limited to low-income youth. Although members of middle-class or higher income groups seldom are motivated to undertake a criminal career by the open success of gangland chieftains, many questionable compromises with the legal and moral code probably are attributable to the cynicism engendered by the favored position presently enjoyed by society's worst offenders.

I. The Price We Pay

America has never lost a war. Nevertheless it has been put to plunder for half a century. At the hands of organized crime, America has endured the exaction of billions every year, the stifling of free competition in hundreds of markets, the maiming and murder of countless human beings, the systematic cultivation of human weaknesses in our

⁹² "When a noted criminal is caught, the fact is the principal topic of conversation among my boys. They and others lay wagers as to how long it will be before the criminal is free again, how long it will be before his pull gets him away from the law. The youngsters soon learn who are the politicians who can be depended upon to get offenders out of trouble, who are the dive-keepers who are protected. The increasing contempt for law is due to the corrupt alliance between crime and politics, protected vice, pull in the administration of justice, unemployment, and a general soreness against the world produced by these conditions." Statement of a leading worker with gang boys, quoted in THRASHER, *THE GANG* 455 (1927). The demoralizing effect of organized crime on members of juvenile gangs and its methods of recruiting new organization members from these groups are described in chapters 20 and 21 of Thrasher's book, entitled respectively "The Gang and Organized Crime," and "The Gang in Politics."

⁹³ "In this era of the organization man, the underworld—like most institutions that prosper within an established culture—has learned to conform. Its internal structure provides status for those who would plod along in workaday clothes. . . . Affiliation with such an organization is almost irresistible to the youth who would choose crime as a way of life. . . . As part of the underworld, an ambitious youth can rise from bodyguard and hood to a pillar of the community, giving to charities, dispensing political favors, sending his boys to West Point and his girls to debutante balls." TYLER, *op. cit.* *supra* note 11, at 228.

population, the fostering of thousands of derivative crimes, the corruption of sports, the subversion of democratic institutions, and the crumbling of moral supports. This is a horrible price for American society to pay. And yet organized crime continues unquashed and largely unscathed. The factors which have combined to allow this parasitic anomaly to survive and prosper in an essentially law-abiding society are the subject of the next section.

II. OBSTACLES TO EFFECTIVE LEGAL SUPPRESSION OF ORGANIZED CRIME

Over the past several decades, criminal organizations in many sections of our nation have managed to found and sustain vast empires, despite the fact that virtually all of their activities are unlawful. There is nothing inevitable about this success. For the most part organized crime is engaged in types of criminal activity which are particularly vulnerable. Unlike burglary, robbery, kidnapping, and similar crimes which can be accomplished in a short time at a given place and after which the criminals can effect an escape to another, gambling and prostitution, for instance, require a continuing, usually well publicized operation at the same location over a long period of time. Since violations of law often are repeated every moment of every day seven days a week at a location which is more or less open to the public, they are difficult to conceal from an even moderately alert law enforcement body.⁹⁴ But despite this inherent vulnerability to detection and prosecution, organized crime is able to derive over half its income from gambling.

The factors which allow criminal organizations to remain immune from efforts to crumble their illegitimate empires can be grouped into three broad categories: (A) obstacles to successful prosecution inherent in the size and highly developed structure of criminal organizations; (B) obstacles erected by the organization's influence in local government agencies charged with law enforcement responsibilities; (C) obstacles attributable to public apathy.

⁹⁴ "The story . . . carried an account of an interview reporters . . . had with August J. (Gus) Liebe, manager of [a] crap game. Liebe, who has managed lush gambling establishments for Capone syndicate leader Rocco Fishchetti for many years told reporters that the game was too big to hide. Said Liebe, 'There is no such thing as sneaking with a big gambling operation. It is bound to attract a lot of attention. I guess the sheriff doesn't know his way around.'" PETERSON, *A REPORT ON CHICAGO CRIME FOR 1958*, at 49 (1959).

A. *The Size and Highly Developed Structure of Criminal Organizations*

Although a criminal organization depends to a considerable extent upon the umbrella of political corruption to shelter itself from effective prosecution, there are other obstacles inherent in the nature of organized crime which make it more difficult than other forms of crime for even the most honest government to suppress.

1. *Easy Replacement of Lower Echelon Members of the Criminal Organization*

One of the obstacles in the path of stamping out organized crime is the fact that organization members can be easily replaced. The arrest and conviction of the employees of one of the organization's gambling establishments does not seriously cripple the organization. It merely creates a temporary manpower shortage for that particular enterprise. Within a short time, new employees can be recruited, and a new gambling establishment opened, possibly at the same location. A criminal organization similarly can survive concerted drives on its enterprises. As long as enough high-level members of the organization remain outside of custody to manage the untouched enterprises and to reopen the others, the organization survives and prospers.

Of course, as is true of any business organization, legitimate or illegitimate, the expendability of a given member of a criminal organization depends upon his position in the organization and his skill in that position relative to possible successors. Naturally, a criminal organization can lose, through criminal prosecution or otherwise, almost any number of its lower echelon operatives without sustaining any damage more serious than temporary inconvenience. Croupiers, gunmen, pushers, all can be replaced with relative ease, just as an automobile manufacturing firm probably could readily replace many of its secretaries, assembly line personnel, or salesmen, if the need arose. The dislocations become more serious and the readjustments more difficult as the duties of the person convicted become more complex. But as the ease of replacement of a member of a criminal organization decreases, the probability that he can be prosecuted successfully also decreases.⁹⁵

⁹⁵ "Minor members of . . . gangs may be imprisoned, but the top leaders remain relatively untouched by law enforcement agencies." ABA, REPORT ON ORGANIZED CRIME AND LAW ENFORCEMENT 13 (1952).

The virtual immunity of these less replaceable "management-level" members is the basis of the continuity so essential to the success of any criminal organization.

2. *Immunity from Prosecution of "Management-Level" Organization Members*

At least two factors contribute heavily to the security of the "management-level" members of a criminal organization. The first and pivotal factor is that of insulation. In any criminal organization of substantial size, the organization leadership will be insulated by several layers of underlings from the actual physical acts which constitute the criminal offenses committed by the organization.⁹⁶ A gambling raid, for instance, seldom will net any "management-level" organization members. They are the brains and the financiers of the criminal organizations. And, it is the hands, not the brains, of an organization which commit the overt acts and are caught if anyone is. Even specialized acts, such as extortion and murder, usually are committed by lower echelon members of an organization.⁹⁷ The "management-level" organization members ordinarily do not run dice games, push dope, or solicit for prostitutes. Moreover, it is usual that the premises on which the organization's illegal enterprises are conducted will be "owned" and operated by "front men."⁹⁸ Consequently, "management-level" organization members will not be tied even by legal title to an organization's illegal enterprises.

The second key element in protecting the organization leadership from effective prosecution is the difficulty of obtaining testimony against these men. In part, this is a problem of identifying all the witnesses necessary to establish the leader's

⁹⁶ "Just as with big business, management of the syndicate acts on a very different level and often miles away from [the] operation. . . . [E]ach level operates as insulation to the higher level. . . ." Special Group on Organized Crime in the United States, *op. cit. supra* note 15, at 106.

⁹⁷ "The killer is generally an imported 'gun.' He comes from some other part of the country—or some other country. . . . He arrives to perform a mission and he departs when the mission is completed." TYLER, *op. cit. supra* note 11, at 229.

⁹⁸ "In the style of the modern underworld, the mogul invest[s] his money through a 'trustee' or 'trustees,' . . . The contract between the mogul and his trustee is by word of mouth—the usual contract in the underworld, observed more punctiliously than most written instruments in the legal world. A man's word is as good as his bond in the underworld because violation of a contract is not corrected by 'damages' but by death." *Id.* at 366-67.

connection with the crime. Because of the important phenomenon of insulation, it is necessary in order to convict these men to forge a chain of testimony linking them to the overt criminal acts. Since there may be, in a given case, a number of intermediaries interposed between the management-level members who ordered and financed the overt criminal acts and the lower-echelon members who committed the acts, this chain of testimony often will be extraordinarily long and difficult to obtain.⁹⁹ The lower echelon members who are apprehended will not be in a position to testify concerning the involvement of organization leaders. Their only contact will have been with some minor functionary who, in turn, took his orders from yet another mere middleman. Seldom, even if they wanted to, could the lower echelon members of a criminal organization provide admissible and cogent evidence against anyone higher than the next level in the organization hierarchy.

The problem of obtaining effective testimony against the leadership of a criminal organization is compounded by the reluctance of witnesses to organization crimes to testify against the organization. This widespread reluctance is manifest not only among organization members but also among innocent bystanders and even the victims of organization crimes. The innocent bystanders and victims are dissuaded from testifying by fear of the atrocities which may be inflicted upon them or their families by a criminal organization as a penalty for jeopardizing its activities. This fear is not always rational. However, it has sufficient basis in fact¹⁰⁰ to insure the silence of most potential witnesses against important elements of or-

ganized crime. Others succumb to the offer of a substantial bribe.¹⁰¹

Members of a criminal organization, too, are motivated by fear of physical reprisal should they offer evidence against their confederates. Organization members who have threatened to "squeal" have been administered the quick, violent justice of organized crime.¹⁰² However, the testimonial silence of these men is attributable equally to other, more subtle forces. Mixed with the fear are probably about equal parts of loyalty and a belief that silence will be rewarded. Behind the loyalty of minor functionaries lies the fact that most criminal organizations are stable, well-paying employers who treat dependable employees fairly and who stand ready to re-employ lower echelon members at above-market wages upon their release from government custody. At higher levels in an organization hierarchy, this amorphous sense of loyalty has hardened into a strict almost religious code of silence.¹⁰³ The Mafia-related organizations call this strict observance of silence *omerta*. But the attribute is not confined to these groups; observers agree it is one characteristic common to almost all criminal organizations.¹⁰⁴

The rewards which criminal organizations hold out to all members, high and low, who refuse to cooperate with law enforcement officers serve further to reinforce the motives of fear and loyalty tending to produce silence. One of the chief rewards is monetary. For those who maintain silence, there often will be regular support payments for their families during their imprisonment, as well as bonuses and promotion upon release.¹⁰⁵ Another

¹⁰¹ Special Senate Comm., SECOND INTERIM REPORT, *op. cit. supra* note 6, at 8.

¹⁰² Some of the murders cited in note 55, *supra*, were organization members who contemplated testifying against principal figures in their own organization. Three of the 15 gangland murders in Chicago during 1961 were committed against persons alleged to be police informers associated with organized crime in that city. See note 58 *supra*. Thus, it is not difficult to see why Tyler concludes that: "The 'insiders,' the members of the organization who are involved, are little trouble. . . . The punishment meted out to them if they do turn state's evidence is merciless and virtually inescapable." TYLER, *op. cit. supra* note 11, at 231.

¹⁰³ [T]he code of secrecy makes it almost impossible to get a member to give evidence against his brethren, . . . [The] code . . . is not something reduced to writing, and is rarely even spoken about—it is second nature. Members are only taken into the organization after they have proved their right to membership in some positive fashion, such as by adherence to the code in the face of extreme danger." Special Group on Organized Crime, *supra* note 15, at 104.

¹⁰⁴ See note 102 *supra*.

¹⁰⁵ "[W]hen a member of the mob goes to jail, he

⁹⁹ [M]embers [of a criminal syndicate] separated by two or more levels of operation frequently [do not know] the identity of each other." Special Group on Organized Crime, *supra* note 15, at 103.

¹⁰⁰ "... William Drury, a former acting police captain . . . was struck in the head with four blasts from a shotgun . . . he was scheduled to furnish information to the Kefauver Committee on September 26, the day following his murder." PETERSON, BARBARIANS IN OUR MIDST 219-60 (1952).

"[I]n 1919, the Mafia murdered an eleven-year-old boy named Carramusa in Kansas City, a hotbed of Mafia activities. Follmer [Narcotics Agent] testified: 'The murderer of the Carramusa child was caught red handed by outraged bystanders and was almost beaten to death before being arrested by the police. He was identified as Paul Cantanzaro, but he was never convicted, as the host of witnesses were methodically terrorized.'" KEFAUVER, CRIME IN AMERICA 21 (1951). (Emphasis supplied.)

Other examples of witnesses against whom threats of murder were carried out are given in note 55, *supra*.

form of reward offered obedient members is the services of organization attorneys in defending them in the criminal proceedings.¹⁰⁶ Moreover, in many cities, through its influence over the local public officials, a criminal organization is able to guarantee acquittal or at the least a minimum sentence to any member who observes the code of silence.¹⁰⁷

As the foregoing discussion suggests, criminal organization exerts potent pressures upon potential witnesses, and particularly upon the organization membership. Serving to magnify the effectiveness of these pressures is the fact that several levels of personnel insulate the organization leadership from the criminal acts. Because of this insulation, it is not necessary to obtain the silence of every witness. If one weak link can be found who will yield to the organization out of fear, loyalty, or in hope of reward, the prosecution's chain of testimony will collapse, and the security of the organization leadership will be preserved.

3. *The Fractionalization of the Law Enforcement Effort Against Organized Crime*

Jurisdiction over most of the crimes committed by criminal organizations is entrusted to a patchwork of local and state law enforcement agencies, each segment of which is hemmed in by artificial boundaries, limited powers, and restricted responsibilities.¹⁰⁸ Beyond their own territories these law

carries with him the protection of the organization The 'home office' protects him against bullies, gets him preferred cells and the softer job, works on parole—and, most important, takes care of his family." TYLER, *op. cit. supra* note 11, at 233.

¹⁰⁶ "The gang has means of protecting its members Expensive and able counsel is provided. One of the peculiar coincidences that occurred time after time was the revelation that the identical lawyer appeared for many of the bookmakers working for the same major outfit. In Miami, Ben Cohen, brother of one of the members of the S. & G. Syndicate turned up as counsel for many of the bookmakers who were arrested there." Special Senate Comm., SECOND INTERIM REPORT, *op. cit. supra* note 6, at 8.

¹⁰⁷ "Even where a conviction is ultimately obtained, an effort is made to keep the sentence as light as possible or to obtain an early release on parole [In Chicago] underlings occasionally receive punishment, almost without exception, of a minor kind." *Id.* at 8-9.

¹⁰⁸ "Law enforcement is administered by Federal, State, and local governments. . . . In the non-Federal area, encompassing perhaps 90 percent or more of all crime, there are 49 States, plus the District of Columbia. Each of these subdivisions is broken down further into numerous smaller political units. Thus, there are thousands of State, city, county, and special police units and State attorney generals, district attorneys, and special prosecutors." Special Group on Organized Crime, *supra* note 15, at 106.

enforcement units are unable to conduct investigations, enforce subpoenas, or initiate prosecutions.¹⁰⁹

Organized crime has been alert to seize upon this characteristic flaw in the structure of law enforcement. Unfettered by such inflexible jurisdictional restrictions, a criminal organization typically will range freely over a broad geographical area which overlaps many discrete governmental entities. The organization will purposely structure its activities to obtain optimum advantage from the boundaries separating the jurisdictional units within its area of operation and from the uneven standards of honesty and competence prevailing in the law enforcement bodies within these units.

By concentrating its illegal enterprises in those self-governing hamlets or "strips" within a metropolitan area which have small, largely untrained police forces and no investigators, or which are easily corrupted, a criminal organization often is able to protect these operations from detection and effective prosecution. This strategy is well illustrated by the situation prevailing in Cook County, Illinois. Wide-open gambling for the most part has been driven out of Chicago proper. It now thrives in many villages on the fringes of the city such as Cicero and Calumet City.¹¹⁰

While concentrating the organization's illegal operations in jurisdictions where they can dominate the law enforcement machinery, the major figures in a criminal organization often will maintain their residences in a plush residential neighborhood in a

¹⁰⁹ Some of the problems attendant upon such a division of jurisdiction over organization activities is suggested in the report of the Attorney General's special group. "[T]he leaders can remove themselves from the subpoena power of any particular local prosecutor. Even the most vigorous local district attorney finds it virtually impossible to investigate where the real culprits are outside his subpoena jurisdiction No matter how great his desire to cooperate, a detective in one city cannot know what an assistant district attorney in a distant city needs to piece together a complex syndicated crime pattern." *Id.* at 106-07.

¹¹⁰ "Although there was little wide-open gambling in Chicago proper in 1959, the situation was considerably different in many localities in Cook County beyond the city limits where Syndicate bigwigs were reaping a fortune from gambling operations." PETERSON, A REPORT ON CHICAGO CRIME FOR 1959, at 52 (1960). "The principal cancerous spot in the county, as it has been for decades, is Cicero. Notorious gambling joints from which Capone gang leaders admittedly have amassed huge fortunes continue to flourish there." PETERSON, A REPORT ON CHICAGO CRIME FOR 1955, at 4 (1956). "When members of the state's attorney's staff . . . investigated conditions in Cicero they were brazenly intimidated by the hoodlums who operated gambling joints there." PETERSON, A REPORT ON CHICAGO CRIME FOR 1954, at 11 (1955).

different jurisdiction far removed from the locus of these illegal enterprises. In Detroit, for example, most of the underworld overlords occupy estates in Grosse Point, an exclusive and highly respectable suburb with not a tinge of the vice or illicit businesses which are the basis of their fortunes. Thus, the police officers and prosecutors who have jurisdiction over organization businesses will not have jurisdiction over the men chiefly responsible for the perpetuation of these businesses.

Sometimes, if the geography is suitable and their lines of control cohesive, organization leaders will place a state boundary between themselves and their illegal enterprises.¹¹¹ This provides an added measure of security from effective prosecution. In other localities, the organization leadership must rely upon the even more artificial lines which divide city from county and county from village. But, in either case, through proper planning a criminal organization usually can manage to isolate both its primary illegal operations and its leaders from the vast bulk of the law enforcement resources which confront it in a metropolitan area.

B. Corruption of the Agencies Charged with Law Enforcement

Because of the factors discussed above, even the most capable and dedicated law enforcement machinery would face a formidable opponent in a tightly knit, well organized criminal syndicate. The easy replacement of its minor functionaries, the relative immunity of its leaders because of their insulation from the criminal acts and the difficulties in obtaining testimony against them, and its ability to structure its operations to take advantage of our decentralized system of government combine to render organized crime the most difficult of all criminal adversaries. But organized crime has not been satisfied to rely on this inherent strength. It has purchased additional insurance by corrupting, as much as possible, the law enforcement machinery which opposes it.¹¹² Through this technique the

criminal organization has been able to purchase virtual immunity not only for its "management-level" members, but also for its lower echelon members and all its widespread and otherwise often vulnerable illegal enterprises.

Effective law enforcement depends upon an interlocking team made up of police, prosecutors, judges, and legislators. Of course, a criminal organization does not corrupt every official at every level of law enforcement. What it feels necessary to its security, and what it usually succeeds in accomplishing, is to corrupt some officials at each level. Through this technique, it is able ordinarily to neutralize any sporadic attempts to destroy the criminal organization which might emanate from a single dedicated individual or group of individuals at one level of law enforcement, for the other levels will be sufficiently riddled with persons amenable to organization pressure to frustrate such efforts.

The currency used to purchase corruption is varied. Some officials are bought with money.¹¹³ Others are bought with votes or the funds with which to purchase votes.¹¹⁴ Many other politicians

is the corruption and connivance of many public officials." ABA, *op. cit. supra* note 16, at 16.

¹¹³ "This is typified by such items as the \$1,000,000 a year protection money paid by the Gross bookmaking empire in New York City, the \$152,000 a month paid to police officials in Philadelphia, not to interfere with gambling, the \$7-11,000 at a time turned over by a deputy sheriff of Dade County, Florida, to the wife of the Sheriff, the \$108,000 'juice' entry on the books of the Guarantee Finance Co., a bookmaking operation in Los Angeles." *Id.* at 16-17.

"Alexander Heard, in his book on campaign finances, estimates that organized crime currently pays for fifteen per cent of campaign expenditures at state and local levels. In 1952 that would have been some \$16 million—ten times the national contribution of organized labor." Moynihan, *The Private Government of Crime*, The Reporter, July 6, 1961, p. 14 at 18.

¹¹⁴ "The sinister influence of gangsters like Frank Costello and Joe Adonis in the Democratic organizations of Manhattan and Brooklyn, respectively, the extraordinary attempt by the gangster politician Binaggio to acquire control of the police board of Kansas City, so that he could put in his own man as chief, the large contributions made to Governor Fuller Warren's campaign in Florida by a known associate of the Capone gang are but a few typical examples of the abuse of the political process to further the interests of gambling and racketeering elements." *Id.* at 17. "There is considerable evidence in the minutes of the testimony concerning contributions to political campaigns by gamblers and gangsters. For example, William Molasky contributed \$2,500 to the gubernatorial campaign in Missouri in hope that he would be given the right to name a member of the St. Louis Police Board. . . . The fact that Emilio Georgetti 'the Gambling King of San Mateo County' in California, worked like a beaver for the election of Sheriff McGrath and 'accumulated a

¹¹¹ "In another instance, the scene of illicit operations is close to the border of the State. This location is in the Midwest. One individual travels daily between the two States. He conducts his layoff business in the one State and lives in a \$200,000 house in the suburbs of a large city across the border in another State.

"I might say, . . . this particular individual lives in the State of Ohio. All the bad things are going on in another State." Statement of Robert F. Kennedy, *Hearings Before Subcommittee No. 5, supra* note 15, at 22.

¹¹² "The largest single factor in the breakdown of law enforcement agencies in dealing with organized crime

bow to a criminal organization not to obtain support but to avoid incurring the opposition of such a formidable political opponent. A fourth category succumb to the wishes of their superiors in the political organization who in turn have been bought with money or votes, in order to retain their present positions, or to secure advancement to higher ones. Still others are threatened or blackmailed into cooperation.¹¹⁵ Whatever the mode of payment, the result is the same—the official, be he policeman, prosecutor, judge, or legislator, serves a second master, rather than the public, in certain cases. In the event the criminal organization is involved, he will act, fail to act, or act ineptly, whichever will better serve the organization's purposes.¹¹⁶

The role which a corrupted official may play in subverting effective law enforcement action against a criminal organization naturally depends upon the function which that official performs within the law enforcement machinery.

1. *Corruption Within the Police Force or Investigative Agency*

Corrupt policemen and investigators are able to serve a criminal organization in at least two ways. First, they can fail to "see" or report infractions of the law committed by members of the criminal organization in their presence or in the presence of men under the corrupt official's supervision. Thus, gambling houses, houses of prostitution, and dope pushers can remain "undetected" in certain "safe" areas which are policed by those sympathetic to the syndicate.¹¹⁷ Second, corrupted

little money for the campaign,' did not hurt him in his gambling operations." Special Senate Comm., SECOND INTERIM REPORT, *op. cit. supra* note 6, at 29.

¹¹⁵ The use of prostitutes by criminal organizations to acquire useful blackmail material against high government officials with which to obtain their cooperation is described in ANSLINGER, *THE MURDERERS: THE STORY OF THE NARCOTIC GANGS* (1961).

¹¹⁶ "Wherever organized criminal gangs are entrenched in a particular community and have been given the green light to operate, it is not unusual to see the forces of law enforcement being used against their competitors, while protected enterprises are left severely alone . . . In the Miami story, we saw this weapon of unequal enforcement of the law by a State official being used against the S & G as one of the weapons to compel it to capitulate to the demands of Accardo-Guzik-Fischetti crime syndicate." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 182.

¹¹⁷ "The underworld has its links with the police, the individual copper who walks his beat. His pay is low; his life is dull; his future is limited. But in an entente cordiale with the underworld, he can find new horizons; highly increased pay; women and wine; a quick financial

persons within the police department or investigative agency can furnish warnings to the organization when arrest or search warrants are issued or other positive action is contemplated against organization members or enterprises. A quick phone call can enable a flourishing gambling casino to be transformed into an innocent appearing restaurant before a police raiding party can complete the journey from the precinct station. With sufficient infiltration of the police department or investigative agency the criminal organization can remain fully appraised of its opponent's every move and thereby take action to render these moves ineffective.

2. *Corruption of Local Prosecutors*

Useful as "ownership" of a goodly number of policemen may be to the criminal organization, no dollar of corruption buys as much protection as the dollar which directly or indirectly influences the public prosecutor or one of his trusted assistants.¹¹⁸ It is with the prosecutor that the most crucial decision rests—to prosecute or not to prosecute. To control the man who makes this decision is to sit at the steering wheel of the law enforcement machine. If the criminal organization can actually control the head local prosecutor, it has complete and indestructible immunity. This is the degree of influence which the organization would like to wield; it is doubtful that it usually succeeds. On the other hand, there are probably not many prosecutor's offices in major cities in this country in which the criminal organization swings no weight at all.

The organization's purposes are well served even if the prosecutor is honest, if he will only be more or less indifferent. The other obstacles standing in the way of enforcing the laws against the criminal organization are so formidable that only positive, creative action originating in the prosecutor's office can possibly seriously undermine the

killings. The temptation to make a deal with the underworld especially when it appears to harm nobody, is as alluring as it is common. Starting with a weekly stipend for closing one eye at a gambling joint, the sum—and the involvement—multiply as the cops and robbers convert traditional antipathy into mutual assistance. When, on occasion, the operation of the business calls for violence the local constabulary is cast in the role of accomplice *in absentia*." TYLER, *op. cit. supra* note 11, at 231.

¹¹⁸ "If the DA can be reached—indeed, if the underworld can put its own man in the DA's office—then the crime organization can guarantee a high level of security to its employees." *Ibid.*

organization's success. Consequently, if they can be blessed with a less than dedicated or less than capable chief prosecutor, the members of the criminal organization are usually satisfied. Through their substantial contributions to political parties, criminal organizations are usually able to guide the party nominations toward men who fit this pattern or at least who are known not to harbor any abiding determination to fight the organization.

In addition to suppressing prosecutions against the criminal organization, influence within the prosecutor's office can be felt in other ways. A case which is lost is nearly as ineffectual in stopping organized crime as a case never begun. Thus, a case intentionally lost is nearly as valuable to the organization as a case intentionally never begun. Payoffs to assistants on the prosecutor's staff can yield handsome dividends, especially when the chief prosecutor is honest enough to commence prosecution of organized crime cases which are dropped in his lap, but too indifferent actively to seek such cases or insure their diligent handling by his subordinates. Last, infiltration of the prosecutor's staff becomes especially important if the chief prosecutor himself is one of those few men dedicated to the destruction of organized crime. In that case, knowledge of his overall strategy and current moves is highly valuable to the organization in warding off his blows.

3. Corruption of the Judiciary

Another phase of law enforcement in which criminal organizations often capture some influence is the judiciary. Although there is very little evidence that organized crime has been able to achieve any success in the appellate courts, there is every reason to believe that the trial courts of some of our large cities are liberally sprinkled with judges who are indebted in one way or another to the predominant local criminal organization.¹¹⁹ Whether elected with the aid of the organization or appointed by persons who themselves were so elected, the debt to the organization is there. The specie of repayment of that debt may take any one of several forms.

The first stage of the proceedings at which a corrupt trial judge can be of use to the organization

is at a police request for the issuance of search or arrest warrants. Although it is difficult for a judge to deny such a warrant if the evidence justifies issuance, a tip-off to the organization that the warrant has been granted usually renders the warrant as ineffectual as if it had been denied. This is particularly true in the case of premises used for gambling and related crimes, where the premises can be converted into an innocent appearing front in a matter of minutes.

The next proceeding at which the judge's non-reviewable discretion can be abused for the benefit of organized crime is at a hearing on a motion to suppress evidence alleged to have been illegally seized. Since the heart of most gambling and narcotics cases is the physical evidence seized during a "raid," the suppression of such evidence ordinarily will defeat the prosecution's case.

At the trial itself, the judge again can be of service to a criminal organization. Most cases involving the crimes of the criminal organization are bench trials. Consequently, the judge has power to decide the case on the merits, even against the most overwhelming weight of the evidence, for the organization defendant. Even in a jury trial the judge can influence the outcome. Moreover, in neither a bench nor jury trial does the state have the right to appeal.¹²⁰ The most prejudicial conduct of the judge, or the most outlandish decision by him, cannot be challenged in the higher courts. The only check on such a judge is the repercussions which might follow exposure of his conduct to the glare of publicity in newspapers and other news media.

4. Corruption of the Legislature

There is strong evidence to support the conclusion that the long black hand of organized crime reaches into the legislative chambers of some of our larger states. Although probably never mustering a majority or even a near majority, blocs of legislators bound closely to organized crime have been successful in defeating remedial legislation aimed at suppressing the criminal organization.¹²¹

¹²⁰ "Some of the abuses in the criminal courts which defeat justice could be partially reduced at least through the exercise of sound discipline by the courts. Not too much can be expected from this source, however; rulings in favor of the defendant and against the prosecution are generally not appealable." PETERSON, A REPORT ON CHICAGO CRIME for 1959, at 19 (1960).

¹²¹ "Substantial testimony was adduced before the committee that certain members of the State legislature, particularly those living in districts most heavily infested by racketeers, fought against legislation designed to curb gangster activities and urged for passage by the

¹¹⁹ For example, several judges in New York City owed their selection to the bench to the political maneuverings of Frank Costello and acknowledged this debt in telephone calls to their benefactor. See, Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 121-24.

The technique relied upon to accomplish this purpose has been the old legislative game of vote-trading. By promising support for legislation greatly desired by other legislators, the organization bloc garners votes against any measures likely to seriously injure the interests of organized crime. In states having a large rural representation in the legislature, such votes are not difficult to come by. Since organized crime is no problem to the rural legislator, he is often quite willing to sacrifice programs designed to suppress organized crime in order to further a bill which appeals strongly to his constituents.

5. *The Strategy of Political Corruption*

Organized crime has a large stake in political corruption. Without it, many of the illegal enterprises operated by the criminal organization would be difficult if not impossible to keep in business. The secret of effective corruption is to have influence over some key persons at every level of government which has anything to do with law enforcement. This diversified corruption has two advantages to an organization. First, it tends to thwart any intensive effort against the organization by one dedicated man or group of men located in one or two departments. Since any successful drive against organized crime ordinarily requires the cooperation or at least the full acquiescence of all levels of law enforcement, the organization is usually fairly safe as long as all the departments of government do not become honest at once. The second advantage of diversified corruption is the effect it is likely to have upon morale within all law enforcement agencies. Each member of each agency finds it easier to excuse his own yielding to organization pressure when he feels that his own efforts to oppose the law against a criminal organization would be of no avail, since so many others in law enforcement serve the organization. The

vigorous Chicago Crime Commission, and associate freely with their gangster constituents. Roland Libonati, Democratic State senator from the West Side, and a close associate of Capone's, spearheaded the opposition to the reform legislation proposed by the Chicago Crime Commission and Governor Stevenson and backed by the bar. Representative James J. Adducci, Republican member of the bipartisan coalition against reform, has represented Chicago's West Side for 17 years. Adducci has been arrested a number of times in company with Capone mobsters and admitted to accepting campaign contributions from Lawrence Mangano, a well-known figure in the Capone hierarchy, . . ." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 59.

more that have been corrupted, the easier it is to corrupt the remainder.

C. *Public Indifference to the Threat of Organized Crime*

The bedrock of organized crime's success is public indifference and lack of knowledge concerning the evils of organized crime and the means of dealing with it.

The term public indifference embraces a multiplicity of attitudes tending to create a social atmosphere favorable to organized crime. The public attitude can range from mere apathy toward organized crime,¹²² the attitude prevailing in most American communities, to active public support for the criminal organization dominant in a given area. Examples of the latter fortunately are relatively rare; this is fortunate, because an organization which maintains its headquarters and confines its operations primarily within a geographical area where the residents openly and actively assist is doubly difficult to combat. One of the largest criminal organizations in Brooklyn, headed by the Gallo Brothers, occupies such an advantageous position. The people of the Market Street area, the ethnically homogeneous community where the Gallo Brothers gang is based, are friendly to the organization and its activities and antagonistic to law enforcement officers and their efforts against the Gallos. Thus, added to the normal obstacles confronting government agents are several thousand organization sympathizers bent on hampering their actions. A raid on organization activities or even surveillance of its members is virtually impossible because the neighborhood residents quickly identify any "stranger," make his presence known, and often hasten his exit from the area.

The more usual public attitude is not the active cooperation with organized crime which prevails in Market Street, but rather passive tolerance of organization activities. It is the attitude which shrugs off corruption of public officials, gangland style murders, and wide open gambling and other forms of vice as inherent, inevitable, or not particularly bad. And, it is the attitude which prevents key anti-crime legislation from being enacted, allows corrupted officials to remain in office, and denies law enforcement officers needed testimony against organized crime.¹²³ The lack of concern

¹²² "In the course of its investigations, the committee has seen numerous examples of public apathy toward the operations of organized crime and its alliance with officials at various levels of government." *Id.* at 187.

among the many allows the interested few to determine the magnitude and direction of the government response to organized crime.

Nor is this attitude of indifference and tolerance prevalent only among members of the general public. It is common, as well, among many legislators, judges, and other public officials. At this level indifference is particularly debilitating to any drive against organized crime. The bought and paid for pro-organization lobby will have an easier time defeating effective anti-crime legislation when the rest of the legislature feels no stake in its passage. And, judges who see no threat in the activities of organized crime mete out inconsequential sentences to bookmakers, loan sharks, dope pushers, and racketeers.¹²⁴

The indifference concerning organized crime which has prevailed in most areas of the United States during most periods of our history is the product of many factors deeply imbedded in the nature of organization activities, its mode of operation, and the character of the American society upon which it feeds. One social observer has coalesced these factors into a rationale which seeks not merely to explain the success of organized crime in America, nor to excuse it, but to ensconce it in the role of a positive force for the elevation of minority immigrant groups into their proper station in American society.¹²⁵ If valid, this thesis would also tend to justify the indifference which majority elements in the society have demon-

¹²³ "In the State of Illinois, . . . the committee found evidence that numerous local law-enforcement officials made no effort to interfere with illegal gambling operations. More shocking than the defection of individual law-enforcement officials was the testimony before the committee that many of these men were elected and re-elected by a voting public which was well aware of their tolerance of illegal gambling." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 187.

¹²⁴ Symptomatic of the prevalence of this view among judges are the sentencing practices adhered to by most Federal judges in wagering tax cases. Of the 482 defendants convicted for violations of the Federal Wagering Tax statutes in 1961, only 57 were given prison sentences. This figure represents a mere 11.8% of the defendants convicted. Moreover, only two of this 57 were sentenced to more than one year in prison. Statistics obtained from the Administrative Office of the United States Courts.

¹²⁵ "[I]t was . . . the . . . racketeer, seeking to become respectable, who provided one of the major supports for the drive to win a political voice for Italians in the power structure of the urban political machines." BELL, *op. cit. supra* note 11, at 143.

"[C]rime, in the language of the sociologists, has a 'functional' role in the society, and the urban rackets—the illicit activity organized for continuing profit, rather than individual illegal acts—is one of the queer ladders of mobility in American life." *Id.* at 129.

strated toward the phenomenon of organized crime. However, while under close scrutiny these underlying social factors may serve to explain the existence of public indifference, they hardly excuse it.¹²⁶

The bulk of organization income is not derived from criminal activity which deprives others of their property by force or overt chicanery. Rather, it is obtained from enterprises such as gambling, prostitution, narcotics, shylocking, and legitimate businesses in which organized crime provides people with commodities or services which they desire. Accordingly, organized crime does not ordinarily create a class of irate victims who with their families and friends would demand retribution from the law as do the victims of robberies, burglaries and rapes.¹²⁷ People who do not generally

¹²⁶ The concept described by Bell of leading racketeers as patriotic leaders of their ethnic group striving through their criminal activities to advance the social and political status of their people is intriguing, but hardly squares with the facts. It is his own destiny and not that of his ethnic group which a racketeer seeks to promote. In most instances, a racketeer rises by exploitation of his own people more than of any majority group in the nation. The Mafia protection racket rested primarily upon extortion from fellow Sicilian and Italian immigrants rather than from nationality groups already integrated into the main society. The leading numbers games and other forms of organized gambling take more money from members of minority groups than from any other segment of our population. And criminal organizations promote the distribution of narcotics among members of their own nationality groups with at least as much zest as they push this product with others. The bribes which are paid to public officials are not offered in exchange for increased political power for, as Bell would suggest, the racketeer's ethnic group, but for the protection of the illegal activities of his criminal organization. Organization leaders have shown no preference for members of their own racial stock in promoting the political careers of persons whom they favor. They look for allegiance to the criminal organization and will reward that attitude in whomever it may appear. If they tend to further the political aspirations of some of their own people, it is because they know and trust these people. That ethnic patriotism, conscious or unconscious, was not the motivating force behind the growth of organized crime is amply demonstrated by the fact that many prominent organization leaders have come from ethnic stock which never was in the minority in America. Bell, himself, points out that the leading hoodlums of the Far West and South generally bear definitely Anglo-Saxon names. Moreover, the "mission" ascribed to the Italian and Jewish criminal organizations by Bell—achievement of political parity for their respective ethnic groups—has long since been completed; nevertheless, these organizations show no disposition to cease their plunder of American society.

¹²⁷ "Syndicated crime has turned largely to extremely profitable and relatively risk-free crimes in which, for practical purposes, there is no individual victim. Indeed, in many cases the conspiracy actually brings the victim into its fold as a co-conspirator.

"Examples of this type of crime are antitrust,

patronize the illegal businesses conducted by organized crime likewise are not aroused by most of these crimes. With the exception of narcotics, these are activities which the majority of Americans do not consider immoral.¹²⁸ It does not automatically follow, as some would suggest, that they are activities which should therefore be legalized. In the management of our society, many things not considered immoral are rendered illegal for purposes of social regulation and the proper channeling of resources.¹²⁹ But most people think in moralistic terms and are loathe to become concerned over acts they do not consider wholly immoral.¹³⁰ Until the public becomes more sophisticated and realizes that a group which organizes to violate systematically our laws aimed at social regulation can be just as dangerous to society as one which concentrates on more "evil" crimes, the average citizen, legislator, and judge will not be seriously concerned about organized criminal activity in its current form.

Further lulling society into a sense of apathy is the innocuous face which organized crime turns toward the general public, as a result of the basic compartmentalization of functions which characterizes a criminal organization. Most persons would

gambling, and even narcotics violations. In all of these the victim usually becomes a party to the crime. Thus, in the antitrust violation, the businessman joins the combination because he is afraid or considers it profitable to eliminate competition; in the gambling operation, the bettor is a necessary participant without whose willing cooperation there could be no crime; in the narcotics transaction, the user is vitally concerned with the continuance of supply and often engages in other crimes to assure this supply." Special Group on Organized Crime, *supra* note 17, at 105.

¹²⁸ "Most crime consists of breaking laws that even the most determined evangelist would have to admit were Caesar's, not God's." RICE, *THE BUSINESS OF CRIME* xi-xii (1956).

¹²⁹ "In the interest of public welfare we have found the need to curb and control through prohibitory legislation, the strongest and most prevalent of human impulses. Laws against adultery, rape and prostitution (for instance) have not entirely prevented these offenses from being committed. But the mere presence of these laws and their partial enforcement have had very salutary effects." PETERSON, *SHOULD GAMBLING BE LEGALIZED?* 47 (1946).

¹³⁰ "One extremely significant fact about the businessman-crook is that he can survive in our society a good deal more easily than most other criminals because he has considerably more moral standing . . . We are taught from the cradle up that the more or less unbridled expression of the acquisitive instinct is not only normal but socially constructive. . . . If we get wind of a conspiracy to hold up a bank, most of us automatically holler, 'Help! Police!' But if we get wind of a conspiracy to sell merchandise at a discount, few of us do." RICE, *op. cit. supra* note 128, at xii.

loathe and fear dope peddlers, labor racketeers and professional killers; but those are not the specialists with whom the general public is most familiar. The only element of a criminal organization with whom they generally will be acquainted is the neighborhood bookie. The cigar store or newsstand bookmaker, typically an independent contractor with the local criminal organization, neither appears nor, in fact, is a vicious or dangerous immoral person himself. His connection with the vicious and immoral central organization is obscure to members of the general public who frequent his establishment or know of his existence.¹³¹ The unsophisticated readily succumb to the shallow syllogism that since the corner bookmaker is not dangerous and since he is a part of organized crime, therefore, organized crime must not be a group to fear.

Although these natural circumstances which tend to induce public apathy are well entrenched in the fabric of American society, organized crime does not entrust as important an aspect of its strength as apathy to the coincidence of natural circumstance. Criminal organizations employ public relations firms to foster their public image as innocuous benefactors of society.¹³² Items are planted in syndicated gossip columns painting leading racketeers in a favorable light. Shortly after the Apalachin meeting was uncovered, reports were leaked to the press that the purpose of the meeting was to withdraw organized crime from the business of distributing narcotics. Thus persons naive enough to believe this well-publicized explanation were left with an impression that organized crime was nothing to fear since it was voluntarily relinquishing participation in the really immoral activities. Nothing which has occurred since the Apalachin conference would suggest there was any accuracy in this rumor. Organized crime remains very much in the narcotics racket. But similar improbable folk tales constantly circulate

¹³¹ "Most people seem unable to feel strongly against the local 'bookie' even though illegal gambling is by far the largest single source of syndicated crime profit." Special Group on Organized Crime, *supra* note 15, at 105.

¹³² "Along with the graduation of syndicated crime into commercial areas has come an ever-increasing use of the techniques of modern public relations to deceive the public, create the appearance of legitimacy and enable close relationships with important public officials." *Id.* at 106. It should be noted that one of the areas of legitimate commerce in which organized crime has made substantial investments is advertising. See, Special Senate Comm., *THIRD INTERIM REPORT, op. cit. supra* note 6, at 171.

in the press, many undoubtedly emanating from the public relations experts retained by organized crime, and all contributing to the image of organized crime as a benevolent conspiracy which would never intentionally harm any law-abiding citizen. To further reinforce this image, organization leaders often assume the pose of public spirited citizens. They contribute heavily and publicly to charity, participate wherever possible in community affairs, take up residence in quiet, respectable suburbs, send their children to fine schools, and associate with any of the leading citizenry who feel compelled to accept their company.¹³³

To pierce the facade of pseudo-respectability and the illusion of harmlessness which natural circumstance and deliberate propagandizing has afforded organized crime, requires a quantity of knowledge and a level of sophistication not possessed by the majority of Americans. It requires a familiarity with the many facets of a criminal

organization's activity and the indirect as well as the direct consequences these may have for our citizens. There must be an appreciation of the insidious connection between organized gambling and murder, between loan sharking and extortion, between racketeer infiltration of legitimate commerce and poorer quality at higher prices. And there must be an understanding of the close relation between all these enterprises of organized crime and the conversion of democratic institutions from instruments for governing the law-abiding majority to tools for profiting the lawless few.

A measure of sophistication was instilled in some members of society by the shocking revelations of the Kefauver and McClellan Committee investigations. And a more active and successful campaign against organized crime has been the result. However, too many people, among them many judges and legislators, still regard that campaign only as a coordinated drive against a collection of individuals who merely violate some gambling and prostitution laws which have no deep moral significance in current American society. No over-simplification of complex reality was ever more erroneous; none was ever more dangerous.

¹³³ "It is established practice for big-time gamblers and gambling syndicates to contribute generously to charities, fraternal organizations, and other worthy causes as part of their program to ingratiate themselves with the community and convince the public that while more or less illegal, their activities are thoroughly moral." Special Senate Comm., THIRD INTERIM REPORT, *op. cit. supra* note 6, at 187.