

Combatting and Analysing Organized Crime: The View from Witnesses

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Organized criminal activities such as extortion, fraud and smuggling long predate the use of the phrase “organized crime” to describe a distinct phenomenon. In the late 19th century/early 20th century era that historians have labelled ‘progressive’, American reformers, commentators and newspaper editors began to refer to something they called “organized crime” more frequently. Usually the phrase was used to describe illicit activities, such as gambling and commercialised sex, that were protected by the city officials and local political organizations in control of the police and the courts. Despite being illegal these activities were in effect licenced by local authorities through systems involving both large and small scale bribery and, if deemed necessary, violence. For more than half a century – until well into the second half of the 20th century – the main response considered to this form of organized crime was to professionalize police and court systems insulating them from direct political influence. Until this happened the police had little relevant training in organized crime control beyond “on-the-job” advice from more experienced colleagues. If cases involving violent entrepreneurs and corrupt

officials got to court they were likely to be fixed. The main reform assumption was that if police and courts did their jobs efficiently and were free from political interference then the problems associated with organized crime would be minimized (Woodiwiss 2001, 173-183).

In the 1920s the phrase “organized crime” was more commonly used to describe a national rather than just a local problem. This was largely because of the failure of efforts to suppress the trade in alcohol during Prohibition – illuminated most vividly by the ostentatious displays of wealth of Chicago’s Al Capone - combined with growing awareness that certain activities such as fraud and extortion were organized in a more business-like manner than previously. This clearly indicated to many that organized crime had clearly got beyond the capability of poorly trained local police officers and corruptible court officials to control.

The first US federal government attempt to study organized crime was conducted under the auspices of the National Commission on Law Observance and Enforcement between 1929 and 1931, commonly named after its chairman, George Wickersham. Two of its consultants, Goldthwaite H. Dorr and Sidney Simpson, did make a genuine effort to come to an objective understanding of the nature and extent of organized crime nationally,

although they confined their analysis to organized criminal activity in legal markets.

In their report to the commission on the costs of crime, Dorr and Simpson found that organized crime consisted of two main types of activity. The first was criminal fraud, and this included insurance frauds, fraudulent bankruptcies, securities frauds, credit frauds, confidence games, forgery, counterfeiting, and the use of the mails to defraud. 'It must be emphasized,' they elaborated,

that the criminal frauds which cause the largest losses are organized schemes, carried on as a regular business, and, in many of the most serious cases, masquerading as legitimate business enterprises. Such criminal schemes shade off by imperceptible degrees into enterprises which are so conducted as to avoid criminal liability although employing unethical or even illegal methods of doing business; and the line between criminal and noncriminal activity is thus frequently a rather arbitrary one. Commercialized fraud is more often business run amuck than an offshoot of ordinary crimes against property, and the typical criminal of this class is not the bandit or the recidivist, but the business man gone wrong.

The second type of organized crime activity for Dorr and Simpson was extortion or racketeering, or 'the forcing of persons to pay voluntary tribute to the perpetrators of the crime as a result of fear for life, liberty, bodily safety, reputation, or property.' According to the consultants, "Both of these forms of crime, in their more important manifestations, are examples of organized crime as a business" (Smith 1991, 138-142).

The Wickersham Commission's evidence and final report also made it abundantly clear that prohibition policies had exacerbated the problem of organized crime in illegal markets. The laws that attempted to prohibit the manufacture, importation, distribution and sale of alcohol were virtually ignored and easily evaded and this situation allowed for organized criminality to thrive, "Organized distribution has outstripped organized enforcement", and the report added the following conclusion that can equally be applied to the current and continuing efforts to enforce the prohibition of drugs:

The constant cheapening and simplification of production of alcohol and of alcoholic drinks, the improvement of quality of what may be made by illicit means, the diffusion of knowledge as to how to produce liquor and the perfection of organization of unlawful

manufacture and distribution have developed faster than the means of enforcement. But of even more significance is the margin of profit in smuggling liquor, in illicit distilling and brewing, in bootlegging, and in the manufacture and sale of products of which the bulk goes into illicit or doubtfully lawful making of liquor. This profit makes possible systematic and organized violation of the National Prohibition Act on a large scale and offers rewards on a par with the most important legitimate industries. It makes lavish expenditure in corruption possible. It puts heavy temptation in the way of everyone engaged in enforcement and administration of the law. **It affords a financial basis for organized crime** (emphasis added) (National Commission on Law Observance and Enforcement 1931, 37, 44).

The commission's recommendations ignored the implications of this analysis and argued that there should be no repeal of the Prohibition amendment. It was an example of the fuzzy thinking that has bedevilled governmental responses to organized crime ever since and, at the time, best satirized in a popular poem:

Prohibition is an awful flop.

We like it.

It can't stop what it's meant to stop.

We like it.
It's left a trail of graft and slime,
It's filled our land with vice and crime,
It don't prohibit worth a dime,
Nevertheless we're for it. (Allen 1929,
182)

The commission's support for Prohibition was ignored and a well organized and financed campaign brought about repeal of the 18th Amendment. Repeal immediately cut off an immense source of illegal income and evading the anti-alcohol laws no longer afforded "a financial basis for organized crime". First illegal gambling then drug trafficking replaced alcohol as "financial bases for organized crime", in the opinion of policy makers.

By the 1930s, politicians and public officials found that the phrase "organized crime" was a useful rhetorical device to justify exhortations to action. Attorney General Homer S. Cummings led the way in 1934 when he declared and orchestrated the first federal "war" on crime.

In words that would be paraphrased by countless politicians and public officials in many countries, Cummings claimed that the country was "confronted with real warfare which an armed underground is waging upon organized society. It

is a real war... that must be successfully fought if life and property are to be secure in our country ... Organized crime is an open challenge to our civilization, and the manner in which we meet it will be a test of our capacity for self-government” (cit. in: Powers 1983, 9).

Cummings’ main intention was to inflate the powers and budget of the Bureau of Investigation in the Department of Justice, which until then had had a low profile. In 1934 Congress responded to the campaign to give the Bureau – renamed the Federal Bureau of Investigation(FBI) additional jurisdiction over a variety of interstate felonies, including kidnapping and auto-theft.

FBI Director J. Edgar Hoover immediately exploited the publicity value of the new powers by adding to the heated exaggeration of the war rhetoric and then directing his agents against bankrobbers who had been avoiding capture by crossing state lines. He warned, for example, of “a horde of vandals larger than any of the barbarian hosts that overrun Europe and Asia in ancient times... roving bands of plunderers moving swiftly from city to city and state to state, their machine guns clattering death”. (cit. in: Sherrill 1975, 47) Soon after the warning his agents gunned down “Public Enemy Number One” John Dillinger, and others including “Pretty Boy” Floyd, “Baby Face”

Nelson, “Machine Gun” Kelly whose robbery and killings had led newspapers to ask variations of the question posed by the *Saturday Evening Post* in 1931, “ Before we can settle any other question, before any other question is worth settling, we must get a decision on who is the Big Shot in the United States, the criminal or the Government” (cit.in: Woodiwiss 1988, 41).

For the remainder of the 1930s and the decades that followed, Hoover kept his agency focused more on anti communist and anti radical action than on anti organized crime action. Bankrobbers and kidnappers were still pursued but he kept the FBI away from more complex and corrupting commercialized criminality such as fraud, extortion and 'vice-related' crimes, notably those that involved off-track bookmaking and casino gambling. He was supported in this not only by his superiors – the various Attorney Generals and Presidents under whom he served - but by the great majority of local and state officials anxious to preserve their jurisdictional turf. Hoover was forced to change in the 1960s, but until then, he usually stuck to the position that since most of these crimes were local they were solely the responsibility of state and local governments. He did not deny organized crime existed, as many writers have asserted, but his statements on the matter were an acknowledgement of the fact that

neither the federal executive nor Congress were yet ready to contemplate further federalization of law enforcement.

Testifying before the Kefauver Committee to investigate crime in inter-state commerce in 1951, for example, Hoover argued, in the Progressive tradition, that local political and police corruption was the key to successful organized crime. To make this case he set out a test that could be applied by the citizens of any community to bring out the reasons why organized crime exists. People in every community, he said, should seek answers to the following questions:

What happened to the important cases which were in the newspaper headlines a few months ago? Were they vigorously prosecuted, or were the felons allowed to obtain delay after delay while witnesses disappeared and the final courtroom scene became a mere mockery of the law? Were juries tampered with, witnesses intimidated, perjury suborned? Did the criminal in a serious crime get off easier than some wayward youth who stole a car or burglarized a store while hungry? Are the operators of vice dens excused from prosecution by the paying of a mere fine which amounts to a license to traffic in human flesh? Are criminals allowed by the courts and prosecuting attorneys to plead guilty to a lesser offense than the one charged

and thus receive a shorter sentence? Are convicted criminals afforded special opportunities and privileges in prison? Are pardons, paroles, and probations dealt with like common chattels? Do public officials live beyond their means? ... Are there alliances between the beneficiaries of crime and officialdom? (cit. in: State of California 1953, 74-5).

“Citizens”, he advised, should demand that existing local and state laws should be enforced “fairly and impartially, vigorously and relentlessly” (cit. in: State of California 1953, 76).

There was logic to Hoover’s position since most organized crimes were indeed locally organized, and local law enforcement and criminal justice officials were often actively involved in organized criminal activity as he suggested. He would, however, become increasingly isolated in his stand against increased federal involvement in matters usually reserved to the cities and states. A consensus of opinion was emerging amongst politicians, law enforcement officials and the press that associated organized crime in America almost exclusively with the Mafia usually described as a single centralized organization. In the process the perception of organized crime as a problem that

required honest and effective local law enforcement changed to one that demanded much more nationally co-ordinated action.

In 1961 Hoover got two new bosses when John F. Kennedy became President and Robert Kennedy became Attorney General. Robert Kennedy articulated a new line on organized crime that ended the commitment to localism made by all his predecessors since Cummings. In an article published by *Atlantic Monthly* he offered estimates of the illegal annual gambling take ranging from \$7 billion to \$50 billion and claimed that much of this was then invested into other criminal businesses, singling out the “horrors of the narcotics traffic” as the most significant of these. Gambling had thus replaced bootlegging as the “financial basis for organized crime” and Kennedy made it clear that he had no intention of ending gambling prohibitions in the same way as Repeal ended alcohol prohibition. This time the only permissible response was to accelerate the federalisation of American law enforcement. “This administration”, Kennedy announced “is making a major effort to bring organized crime and racketeering under control”, and detailed a number of new federal laws against gambling and labor racketeering (Kennedy 1962).

J. Edgar Hoover had little choice but to change his tune and now reflected the new consensus about organized crime. A series of statements to the press and Congress showed that he accepted the new consensus. In 1966, for example, he told a House Appropriations subcommittee that:

La Cosa Nostra is the largest organization of the criminal underworld in this country, very closely organized and strictly disciplined. They have committed every crime under the sun... La Cosa Nostra is a criminal fraternity whose membership is Italian either by birth or national origin, and it has been found to control major racket activities in many of our larger metropolitan areas... (President's Commission on Law Enforcement and the Administration of Justice 1967, 190).

Three years earlier, responding to the revelations of Mafia turncoat Joe Valachi, he had announced that the "Cosa Nostra" was a "streamlined", "simple" and national organization and that there are areas of the nation "where racketeers are virtual dictators, public officials being little more than pawns". (Washington AP, 1963). He was thus effectively downgrading corrupt public officials from active to passive participants in organized crime activity.

From then on, with the U.S. Government's blessing, the words "organized crime" would become virtually synonymous with the "Mafia". This remained the preferred popular term despite the FBI's preference for "Cosa Nostra" or "La Cosa Nostra".

It is fitting that the first interview in this collection is with Dwight Smith. Smith was the principal recorder for the Oyster Bay Conferences on Organized Crime – a series of unpublicized private conferences on combatting organized crime at Oyster Bay, Long Island, held between 1965 and 1967. At this time, as Smith narrates in his book – *The Mafia Mystique* (1975) – organized crime was perceived as a nationwide structure with rapidly expanding resources and influence. It seemed to most participants at the conferences that while organized crime was becoming more powerful and unified law enforcement remained fragmented, both organizationally and ideologically, lacked adequate tools for investigation, was underfinanced, and even thought to have been infiltrated in some quarters by agents of its opponents (Smith 1975, 243).

The most influential of the Oyster Bay participants in policy-making terms were G. Robert Blakey, and Donald Cressey – both of whom contributed papers to President Lyndon Johnson's

Commission on Law Enforcement and the Administration of Justice. Cressey's paper and his subsequent book – *Theft of a Nation: the Structure and Operations of Organized Crime in America* (1969) – provided much of the intellectual rationale for the Organized Crime Control Act of 1970. Blakey is recognised as the architect of the Racketeering Influenced and Corrupt Organizations (RICO) Act, the most innovative and dynamic part of the 1970 organized crime control legislation.

Cressey, following Hoover's new line, claimed that organized crime in the US was comprised mainly of twenty-four tightly-knit "Mafia" or "Cosa Nostra" families. For Cressey, these families, with their hierarchies of bosses, captains, and 'soldiers' comprised a well-defined criminal organization that was at the core of organized crime nationally.

Cressey's claims were challenged by other scholars, who would characterize Cressey as a supporter of an "alien conspiracy" analysis of organized crime. Firstly, Joseph Albini published a study of organized crime in Detroit that contradicted a portrayal of established hierarchies and centralised control. In *The American Mafia: Genesis of a Legend* (1971), he wrote, "rather than being a criminal secret society, a criminal syndicate consists of a system of loosely structured

relationships functioning primarily because each participant is interested in furthering his own welfare... since... relationships in syndicated activity are extremely flexible and constantly changing, it would be futile and unrealistic to attempt to chart or give limits or boundaries to the multitude and types of those relationships”.

Albini’s insight was based on interviews with organised criminals as well as law enforcement officers. Albini sadly died before an interview with him could be completed but Jeff McIllwain – the co-writer of his last book (Albini and McIllwain, 2012) - has contributed a substantial historiographical tribute to Albini which features at the beginning of this collection.

The second interview in the collection is one with Frederick Martens. Martens began his career in law enforcement in the 1960s working for the New Jersey State Police. He was fortunate, he narrates, to have entered this police department when it was beginning to embark on one of the most sophisticated organized crime control programs in the nation. The state had chosen to embark upon an organized crime control agenda and was ready to back it up with increased investigative resources and powers for its law enforcers. Evidence on the corrupt alliances between gangsters, politicians and public officials

was gained through wiretaps, electronic surveillance and interviews with informants, and many good cases were made.

Martens' experiences in the New Jersey State Police, then – between 1987 and 1994 – as Director of the Pennsylvania Crime Commission, and since as an integrity monitor in New York City after 9/11 and a fraud investigator in New Orleans after Hurricane Katrina, demonstrate a fundamental truth about organized crime – that organized crime only thrives in corrupt environments.

Our third interviewee is Selwyn Raab, one of America's foremost investigative journalists, and another witness to corruption in many of its shapes and forms. Raab, as reporter for the *New York Times*, covered the so-called Mafia "Commission" trials of the 1980s. These and others that followed were dramatic examples of how committed U.S. Attorneys such as Rudolph Giuliani and Michael Chertoff could make effective use of the RICO law, in particular. Once targets were identified this law and accompanying legislation gave government agencies the powers to gather the necessary evidence to achieve convictions that were once impossible. Raab's testimony sheds lights not only on the investigative techniques of the relevant agencies but also his own investigative techniques and practices. His testimony can also be read as an

account of the tumultuous decades in which crime control policies, including organized crime control policies, evolved, offering insights and judgements on the pervasiveness of anti-communism in the 1950s, the assassination of John F. Kennedy, and the probable assassination of Teamster leader Jimmy Hoffa plus a great deal more.

As our fourth interviewee, James B. Jacobs, reminds us, efforts to control organized crime in America were not limited to the trials of important gangsters and their protectors in politics or officialdom. The interstate compact establishing the New York-New Jersey Waterfront Commission was an early example of an administrative approach to organized crime - adopting extensive licensing in the mid-1950s to attempt to purge gangster influence from the Port of New York. In the mid 1980s, Jacobs himself took up a consulting position with the New York State Organized Crime Task Force that recommended administrative approaches to bring about more transparency and accountability in New York City's construction industry in an effort to limit gangster influence. The approach was rolled out to the waste haulage and wholesale fish businesses after anti-Mafia prosecutor Rudolph Giuliani took office as Mayor of New York in 1994, and his administrative was committed to licensing as an anti-organized crime strategy. These initiatives addressed problems that

the city's corrupt political infrastructure had left to fester for decades. The Fulton Fish Market was purged, for example, of gangster dominated uploading companies. In June 1996 Giuliani supported the New York City Council's decision to create the Trade Waste Commission with the explicit goal of eliminating gangster-connected waste hauling companies. It was structured as a regulatory agency with a law enforcement agenda. Its executive officers, attorneys, monitors, and police detectives were recruited for their experience in related investigations and prosecutions (Jacobs 1999).

In his contribution Cyrille Fijnaut, our fifth interviewee, tells us how these kinds of administrative approaches began to find favour in Europe. He decided that an examination of New York City's experiences with administrative approaches to organized crime would relate better to the Dutch urban environment than focusing on the experiences in mainly rural Sicily, as others were doing. Fijnaut then helped organize a conference in Amsterdam that brought over to the Netherlands some of the key figures from the New York Organized Crime Task Force, including Jacobs, to ask them to elaborate on their work. This conference led to the Dutch government setting up an organized crime policy program that began to combine intense criminal investigations

with administrative measures in order hopefully to prevent but at least to reduce organized crime problems in Amsterdam and other parts of the country.

Our sixth interviewee, Alan Wright, like Fijnaut, is a practitioner-turned academic. As a police officer he was witness to changes in both the organization of crime in the United Kingdom and the police response to it. In his early policing career he was part of the team that brought Ronnie and Reggie Kray to justice in the 1960s. These twin brothers consciously modelled themselves on American gangsters, notably Al Capone, and gained wealth, power and notoriety from their base in the East End of London. The Kray and other gang investigations, Wright tells us, helped promote a shift in the investigative paradigm from largely an offense-by-offense basis to a concerted and more holistic and longitudinal effort to investigate and collate a broader range of associations involving gang-related serious crimes.

The internationalisation of the problem of organized crime went much further than local initiatives such as the conference organized by Fijnaut, and increased in momentum through the 1980s and 1990s, culminating in the 2000 United Nations (UN) Convention against Transnational Organized Crime (TOC). This convention had two

main goals. The first was to eliminate the effects of differences between national legal systems, which had previously blocked mutual assistance. The second was to set standards for domestic laws with the intention of effectively containing organized crime. Most countries have now signed up to the Convention and thus have committed themselves to:

1. Criminalizing offences committed by organized crime groups, including corruption and corporate or company offenses;
2. Cracking-down on money laundering and the proceeds of crime;
3. Speeding up and widening the reach of extradition;
4. Protecting witnesses testifying against criminal groups;
5. Tightening co-operation to seek out and prosecute suspects;
6. Boosting prevention of organized crime at the national and international levels; and
7. Developing a series of protocols containing measure to combat specific acts of transnational organized crime (Wright 2006, 193).

Our seventh interviewee, Petrus van Duyne, is scathing about UN and European responses to transnational organized crime. He writes that, “The

TOC thing is a political US crowbar disguised in United Nations velvet... On the ground most police cooperation developed without the TOC conceptualization, simply out of practical requirements". "The added value", he continues "is mainly for higher-up officials: The 'brass' and 'suits' you can observe in all airports, going to and from one of their redundant meetings". He demonstrates flaws in the methodology of the European Union Framework Decision and offers an alternative that would be far more deserving of the description "evidence-based policy making". As a response to the paucity of rigorous research in the study of "organized crime" he set up the Cross-border Crime Colloquium in 1999 which meets annually and brings together independently minded researchers to keep a critical eye on such relevant developments as anti proceeds of crime laws that make little impact on the proceeds of crime and anti-corruption agencies that make little impact on the extent of corruption.

Francesco Calderoni of the Università Cattolica del Sacro Cuore, Milan, conducted the eighth interview with Ernesto U. Savona. Savona as consultant to the UN, the European Union and several national governments was well placed to witness the internationalisation of organized crime control efforts. Early on in his career he became convinced that other policies besides criminal ones,

such as regulatory measures, should be used to combat organized crime. But he also believes that countries “should pay closer attention to the opportunities for crime that regulation inadvertently produces” and gives as examples corruption and fraud in the area of public procurement as side effects of regulations. There are cases he notes when fraud and corruption are fostered by the formal legitimization of the rules. He would like to see a more robust scientific approach to the collection and interpretation of data. This would require the collection of better and more focused data on the perpetrators of economic and organized crime, their modus operandi, and on the drivers of economic and organized crime behaviors: “more data available”, he concludes “means better analysis and better analysis means finding more effective and efficient remedies”. Not just the costs of crime should be calculated but also the costs of crime control policies.

The issue concludes with Matthew G. Yaeger’s study of one of the pioneers in the study of organized crime and its control, John Landesco. By examining Landesco’s unpublished work, Yaeger is able to show that the Chicago sociologist was more critical of American institutions and policies than is apparent from his published work, notably in the first book-length study of the phenomenon, *Organized Crime in Chicago* (1929).

The recommendations for the control of organized crime in the published book go little further than familiar reformist exhortations for an aroused public opinion to force officials to do their jobs and cut crime. (Landesco, 1968, 277-286). However, in an unpublished excerpt taken from a course Landesco taught at the University of Chicago circa 1929, he wrote the following:

The persistency of organized crime in the face of reform waves and raids by police, and the ability of criminal organizations to buy public officials demonstrates the weak point of the present attempt to cope with crime, but at the same time calls attention to the futility of present methods. Although it can be concluded that the public must elect honest, fearless and competent officials as an important step in the solution to the problem, the question can be raised of the advisability of the coercive method.

Deeper than the prevalence of corrupt officials is the existing demand for vice, gambling and bottle gin. Any program for the control of organized crime must consider means of decreasing the demand for these illegal services. The task is indeed an enormous one and is bound to strain to their utmost capacity administrative and educational agencies but is

fundamental to a successful control of crime. All efforts without this one are treatments of symptoms rather than causes, and as such are doomed to failure. (cit. in: Yaeger, this issue)

Our participants and contributors, would, I believe, echo the Wickersham Commission's plea of nearly a century before, "The importance of dealing effectively with organized crime... cannot be over-emphasized. Intelligent action requires knowledge - not, as in too many cases, a mere redoubling of effort in the absence of adequate information and a definite plan". The commission's consultants recommended an "immediate, comprehensive, and scientific nation-wide inquiry into organized crime" which they felt "should make possible the development of an intelligent plan for its control". There was never such an inquiry in the United States, instead opportunistic politicians and public officials, exploited the organized crime issue. They called for a "redoubling of effort" first at local and state levels, then at federal, and later at international levels, without seriously considering what parts of this effort were productive or counter-productive. A large part of this effort has been institutionalised with the training of hundreds of thousands of law enforcers from most parts of the world in organized crime control techniques. However, without "immediate, comprehensive, and scientific" inquiries at national and international

levels, much of this effort will be wasted treating “symptoms rather than causes” in Landesco’s words. We are likely to remain in the kind of global “fix” that the commentator Carey McWilliams identified in relation to Californian law enforcement agencies and newspapers in the 1950s. “Fix”, according to McWilliams, was in this case not simply synonymous with bribery but with a network of alliances and commitments and obligations, “all mutually reinforcing, of such a nature as to work an almost complete paralysis of law enforcement”. McWilliams was talking at a time when illegal gambling was thought to be the “the financial basis for organized crime” – now drug trafficking is thought to be the financial basis for organized crime. Drug prohibition, like alcohol and gambling prohibition before it, doesn’t “prohibit worth a dime” and has filled all lands with “vice and crime”, in the words of the poem quoted earlier. An assortment of producers, refiners, distributors, importers, exporters, wholesalers, retailers, pushers, financiers, enforcers as well as their corrupt confederates within officialdom and the banking industry continue to make easy profits as a result.

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