

The Analysis and Containment of Organized Crime In New York City and Beyond: an interview with James B. Jacobs

Michael Woodiwiss

Abstract This email interview with James B. Jacobs was conducted during 2014. As a law student at University of Chicago in the early 1970s, Jacobs conducted a participant observation study at Stateville Penitentiary, Illinois' largest and most notorious maximum security prison. That research resulted in his first major publication, "Street Gangs Behind Bars" published in *Social Problems* (1973). In 1975, after receiving his J.D. and Ph.D. (Sociology), Jacobs joined Cornell University as assistant professor of law and sociology. In 1977, the University of Chicago Press published his revised doctoral dissertation, *Stateville; The Penitentiary in Mass Society* (1977). In 1982, Jacobs moved to New York University (NYU) as professor of law and director of the Center for Research in Crime and Justice. In the mid 1980s, he served as consultant to the New York State Organized Crime Task Force's investigation of corruption and racketeering in NYC's construction industry. Jacobs was the draftsman of OCTF's Final Report on Corruption and Racketeering in NYC's Construction Industry (NYU Press, 1990). He subsequently published four additional volumes on organized crime and organized crime control, most recently *Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob* (2011).

Keywords Organized crime • Organized crime control • Administrative approaches to organized crime control

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Michael Woodiwiss: Can you start by explaining a little about your upbringing and where you were raised?

James Jacobs: I grew up in the New York City suburbs (Westchester). My father was a local lawyer; my mother worked part-time as a secretary in his office. I attended public elementary and secondary schools in the 1950s and 1960s. In the fall, 1965 I began matriculating at Johns Hopkins University, soon majoring in sociology. I had the good fortune to study with famous sociologists like James Coleman, Arthur Stinchcomb and Peter Rossi. My high school years were framed by the civil rights movement and my college years by the Vietnam War.

After graduating from John Hopkins (B.A. '69), I did basic training in South Carolina as a member of the U.S. Army Reserves. After that six month stint in uniform, I travelled for eight months in eastern Europe and the Soviet Union as a Thomas J. Watson Foundation Fellow. (I had studied Russian all four years at Johns Hopkins.)

Returning from the USSR, I continued my studies at University of Chicago Law School where I became a protégé of Norval Morris and Franklin Zimring. I was quickly hooked on criminal law and criminology. Professor Morris arranged for me to conduct research at Stateville Penitentiary in the summer of 1972. In preparation, I contacted Professor Barry Schwartz in the University of Chicago's sociology department. He introduced me to the sociological literature on prisoner subculture and encouraged me to use my time at Stateville to study how Chicago street gangs impacted the prison. Intrigued by the idea, I took a few graduate sociology courses, especially benefitting from Victor Lidz's qualitative methodology course. After graduating from law school (J.D. 1973), I became a full-time sociology Ph.D. student. The renown military and macro-sociologist, Morris Janowitz, served as the chair of my dissertation committee on which Norval Morris and Barry Schwartz also served.

Michael Woodiwiss: Your early academic studies culminated in the book – *Stateville; The Penitentiary in Mass Society* (1977). Can you elaborate a

little on this process. Who were your main influences? How did your methodologies develop?

James Jacobs: I worked as Norval Morris' research assistant in the 1971 summer, following my first year of law school. At the end of that summer, Morris told me his plan to send me to prison for the next summer. I never doubted that this would be a great opportunity, although my parents were difficult to convince. The 1972 summer at Stateville profoundly shaped my professional career. Stateville was in a crisis period. The gang leaders and others were happy to talk to me. In my dissertation (later book), I recount some of my adventures and challenges. Morris was a great mentor, guiding me through some sticky (and perhaps dangerous) moments. Janowitz urged me to use Edward Shils' work on "center and periphery" to frame my research.

Michael Woodiwiss: Do you have any thoughts/comments of the evolution of prison gangs since that time?

James Jacobs: For the first seven years of my career, I wrote exclusively about prison issues. After that, I turned my attention to other issues. However, I believe that prison gangs continue to pose problems in many prisons and jails. They pose a significant management problem and a significant crime problem. (Consider that the infamous MS-13 Gang, essentially formed in California prisons, subsequently destabilized several Central American countries and perpetrated violent crime in many U.S. states).

Michael Woodiwiss: When and why did you first become interested in the problem of organized crime?

James Jacobs: My first job was as an assistant professor of law and sociology at Cornell University. When I got there (Fall 1975), G. Robert Blakey directed a small organized crime institute at the law school; Ronald Goldstock was its executive director. Blakey and Goldstock were specialists in organized crime, but I worked on other topics (prisons and then drunk driving). However, my collegueship and friendship with Bob and Ron certainly introduced me to the organized crime problem. Nevertheless, I really did not know much about organized crime or

organized crime control until the mid 1980s, when Ron Goldstock, as Director of the NYS Organized Crime Task Force, recruited me to work with his agency's task force investigating organized crime penetration of NYC's construction industry.

Michael Woodiwiss: The conventional/popular explanation for America's slow start in organized crime control lays the responsibility on J. Edgar Hoover of the FBI. Any comments/thoughts?

James Jacobs: I generally agree with that. Hoover's FBI was primarily an internal security and counter espionage agency. Hoover rightly claimed that the FBI did not have resources nor jurisdiction to investigate essentially local crime groups. He also did not have adequate investigative tools, like wire-tapping authority and a witness protection program. After Cosa Nostra's aborted Apalachin Conference hit the headlines in 1957, Hoover did become interested in organized crime and collected, by electronic surveillance, intelligence information which could not be used in federal criminal trials. In 1968, Congress passed a law (Title III) providing authority and guidelines for electronic eavesdropping. Still, not until after Hoover died in 1972, did the FBI reinvent itself as a first class law enforcement agency. It gave top priority to dismantling the Italian-American organized crime families.

Michael Woodiwiss: In the 1960s and 1970s there was a debate among criminologists about the meaning and structure of organized crime represented by the difference in interpretation between Donald Cressey and Dwight Smith. What authors would you describe as particularly influential on the development of your thinking on organised crime?

James Jacobs: Most of the criminologists and sociologists who wrote about organized crime didn't have a clue. To say the least, they were skeptical about organized crime's existence, echoing the same argument Mafia-as-myth argument that Frank Costello and other leading Mafiosi espoused. Indeed, Norval Morris and his co-author, Gordon Hawkins, *Honest Politician's Guide to Crime Control* (1967), argued that organized crime was a myth and recommended dismantling special enforcement efforts aimed at combatting organized crime. Of course, I also read

Donald Cressey's contradictory account – *Theft of the Nation: The Structure and Operations of Organized Crime in America* (1969) but, loyal to Morris/Hawkins, discounted it.

Michael Woodiwiss: The Kaufman Commission was appointed in the early 1980s to examine the problem of organized crime and its control. What is your judgement on the Kaufman's Commission's work?

James Jacobs: I found that commission (The President's Commission on Organized Crime) to be VERY helpful. At the time I read its reports, I was already working with the NYS Organized Crime Task Force and had been completely re-educated about organized crime. I realized that the Mafia-as-myth sociologists and Morris/Hawkins were completely wrong. The organized crime prosecutions of the 1970s and 1980s made it impossible to accept the mafia-as-myth thesis.

Michael Woodiwiss: In the late 1980s you took up a consulting position with the New York State Organized Crime Task Force and worked with the task force on a study that culminated in a report entitled *Corruption and Racketeering in the New York Construction Industry*. It was a significant enterprise – can you elaborate on your role during this period and the part played by others?

James Jacobs: In the wake of media exposes about Cosa Nostra influence in NYC's multi-billion dollar construction industry, the legislature requested that OCTF conduct a comprehensive investigation of organized crime penetration of the NYC construction industry and the legislature authorized one million dollars for this purpose. Governor Mario Cuomo requested a thorough report on corruption and racketeering in the construction industry. Goldstock hired me to lead the report-writing ("analytic") part of OCTF's investigation. I worked closely with Goldstock, Martin Marcus and Thomas Thacher III, who was head of OCTF's construction industry task force. With the help of OCTF investigators and analysts, we digested everything we could find about the history of organized crime's involvement in NYC's construction unions and contractors. Our final report, published by NYU Press, documented and accounted for the pervasive corruption and

racketeering in the construction industry and offered remedial recommendations.

Michael Woodiwiss: The report made a number of innovative recommendations intended to address the conditions that allowed for corruption and racketeering in the city's construction industry. Most of the recommendations, I assume, were accepted by the relevant authorities and legislative bodies. Was there significant opposition to this process? If so, how was this overcome? Were there some recommendations that fell by the wayside?

James Jacobs: Neither the developers, contractors nor construction unions were supportive or cooperative. The Association for Union Democracy (AUD), a tiny NGO dedicated to promoting the rights of union members against tyrannical union bosses, was the only significantly helpful group. Its leader, Herman Benson, shared his extraordinary knowledge and introduced us to so-called "union dissidents" who provided very helpful context and examples. Our Final Report offered many recommendations about organizing the construction industry and creating more transparency and accountability. Practically none of our recommendations were adopted.

Michael Woodiwiss: My understanding is that this was the beginning of what's been called 'the administrative approach to organized crime control'. Is this your understanding and, if so, can you comment on the rolling out of this approach to other parts of the city's economy such as the waste disposal industry, the garment industry, and the Fulton Fish Market?

James Jacobs: It was NOT the beginning. The interstate compact establishing the New York – New Jersey Waterfront Commission (created in mid 1950s) adopted extensive licensing as its main strategy for purging the Port of New York of organized crime influence. The Nevada Gaming Commission was another prominent licensing agency, whose goal was to keep organized crime figures out of Las Vegas' casinos. Decades later, when New Jersey legalized casino gambling in Atlantic City, it also adopted a comprehensive licensing strategy.

OCTF recommended the use of licensing to purge organized crime from the construction industry, e.g. contractors tainted by organized crime should be debarred from public contracting. When Giuliani (who was U.S. attorney during the time of our investigation) became NYC mayor, his administration enthusiastically embraced licensing as an anti-organized crime strategy. The City quickly began licensing carters (waste haulers) and participants in the wholesale fish market, two long-standing organized crime bastions.

Some time after the OCTF report was released, Toby Thacher moved on to head a newly-created inspector general's office at the school construction authority. The new office had an initial staff of sixty persons. Thacher launched a number of creative and effective initiatives, especially prequalifying contractors who wished to bid on school construction projects. If they were tainted by organized crime ties (or other problems), they would not be prequalified.

Michael Woodiwiss: As I understand it, IPSIGs evolved as an important part of the rolling out process. Can you elaborate on the criminal justice role of IPSIGs? The strengths and limitations of this part of the administrative process?

James Jacobs: The IPSIG (independent private sector inspector general) , Ron Goldstock's idea, was proposed in our Final Report. Questionable contractors would be required to hire (and pay for) a government approved IPSIG who would serve as a hands on monitor of the government's construction project and report possible illegalities to both the contractor and the sponsoring City agency. (IPSIGs served well in the clean-up of the World Trade Center site which had been destroyed by Al Qaeda.)

Michael Woodiwiss: Administrative approaches to organized crime have since been rolled-out in Europe, most notably in Amsterdam, can you elaborate on the part you played in this process?

James Jacobs: Professor Cyrille Fijnaut brought a number of OCTF personnel, including myself, to Amsterdam to discuss the administrative approach with Dutch counterparts. The Dutch participants were

interested and enthusiastic. After that, as far as I know, Fijnaut was the moving force in developing administrative strategies in the Netherlands. I had no other participation.

Michael Woodiwiss: Can you elaborate a little on your understanding of the structure and extent of the Cosa Nostra? In your opinion are Cosa Nostra members still significant in the labor movement, the city government and the local economy of New York City?

James Jacobs: The structure of the Italian-American organized crime families (Cosa Nostra) has been well described by many scholars and government reports over many years. I think these well-known descriptions (boss, under-boss, consiglieri, soldiers, associates) are correct. However, I doubt the existence of a nationwide “Mafia Commission.” I do not think there is solid evidence to establish that such an organization ever existed as a decision-making body. (I don’t doubt that individual mafia bosses had informal relationships and ad hoc cooperation.)

Much of my work has documented and analyzed the influence of organized crime in dozens of (inter)national, regional and local unions. The U.S. Department of Justice (DOJ), by means of civil RICO lawsuits and court-ordered and supervised monitorships, has made great progress in purging organized crime from many labor organizations. Nevertheless, organized crime still wields influence in numerous unions. It is important to note that not all the court-appointed trustees in civil RICO suits against corrupted labor unions have succeeded.

Michael Woodiwiss: Since 9/11 the FBI’s focus has been mainly on counter-terrorism. What is your verdict on their efforts against the Cosa Nostra?

James Jacobs: The FBI’s main priority has quite rightly shifted to counter-terrorism. The Cosa Nostra organized crime families have been very significantly weakened and, in some cities, eliminated, , but organized crime prosecutions continue.

Michael Woodiwiss: Can you elaborate on the use of licensing by Rudolph Giuliani and others in efforts to control organized crime on the New York waterfront and the Fulton Fish Market?

James Jacobs: Licensing enables sustained and on-going vetting of would-be participants (firms and top officers) in racketeer-ridden “industries.” Unlike criminal prosecutions, denial of a license does not require proof beyond a reasonable doubt or, indeed, proof of any criminal offense. Participants in the corrupted industry can be excluded on account of organized crime *associations*.

As a federal prosecutor, Rudolph Giuliani initiated some of the most important organized crime cases in U.S. history. When he became mayor, he continued the effort to purge Cosa Nostra from NYC’s economy by means of administrative licensing. The City stepped in to regulate the wholesale fish market and the waste hauling (carting) industry. The regulators had access to information from past arrests, prosecutions, civil suits, government reports and media articles.

There was and is no legal impediment to the NYPD and the FBI sharing intelligence information on organized crime, but those agencies are not compelled to share their information. They do not disclose information that would jeopardize on-going investigations or the safety of sources.

Regulators quickly began compiling their own databases with information about people with known or suspected organized crime ties. The U.S. has MUCH WEAKER restrictions on data sharing than European countries. NYC’s authority to license the fish market wholesalers and the carters was challenged in the courts, but the judges ruled in the City’s favor. The judges recognized the extent and seriousness of the organized crime problem (which had achieved much publicity in the media on account of numerous high visibility criminal prosecutions). They found licensing to be a reasonable response to the serious problem. *See, e.g., Comm. to Save the Fulton Fish Mkt. v. City of New York*, No. 95 Civ. 8759 (TPG), 1996 U.S. Dist. LEXIS 9297, at *7 (S.D.N.Y. Jul. 3, 1996) (justifying the City’s authority to regulate wholesalers with the fact that “most of the Fulton Fish Market is located in City property

and on City streets.”); *Sanitation & Recycling Indus. v. City of New York*, 107 F.3d 985, 994 (2d Cir. 1997) (holding that the City has “broad (though not unlimited) power to enact a law” with the “broad societal goal” of “eradicating the vestiges of criminal control” in the carting industry).

The organized crime families tried to use straw men to do their bidding in both companies and unions. When law enforcement and administrative agencies and court monitors could prove “knowing association with organized crime,” these straw men could be removed from their positions. *See, e.g., In re Isabella City Carting Corp.*, New York City Bus. Integrity Comm’n, Dec. 18, 2013 (revoking Isabella’s license because it employment of a known organized crime figure); Business Integrity Commission, Annual Report 2012, at 12 (2012) (describing the September 2012 shut-down of Jaraq Produce, which had been operating as a “front” for two other companies whose wholesaler applications “had previously been denied by the [BIC] because of the principals’ well-documented associations with members of the Genovese crime family”). Of course, new straw men could and did, in some cases, take their place, so the struggle continues.

Organized crime has been substantially eliminated from both the carting industry and the wholesale fish market. The carting industry has been transformed by the entrance of national carting firms. In addition, a 25 year long civil RICO lawsuit substantially cleaned up the Teamsters Union, which represents the carting truck drivers. (*Breaking the Devil’s Pact: The Battle to Free the Teamsters from the Mob* (2011)). The wholesale fish market has been relocated to the Bronx.

Michael Woodiwiss: Can you elaborate on the use of these methods in relation to the New York construction industry?

James Jacobs: The construction industry is not really a single industry, but a composite of industries engaged in demolitions, laying concrete foundations, erecting skeletons and doing interior carpentry, drywall, etc. It’s more accurate to think of construction as a sector of the economy rather than as an industry. Given its size, scores of specialties

and hundreds of contractors and general contractors, it would be enormously challenging to license firms that participate in the construction process. When Mayor Giuliani did propose such a scheme, it was defeated by substantial political opposition. The City created a database on racketeer-tainted construction firms (VENDEX) and sought to debar or monitor via IPSIGs firms whose integrity was in doubt.

The School Construction Authority (SCA), created in 1988, to carry out the construction and renovation of NYC schools pioneered a strategy of prequalifying construction firms that wished to bid on SCA construction contracts. The SCA's enabling legislation authorized prequalification, but its actual implementation depended on the leadership of Thomas Thacher, who had previously led OCTF's Construction Industry Investigation. As head of the SCA's Office of Inspector General, Thacher sought to prevent companies tainted by organized crime from participating in SCA construction projects. He did this by requiring firms that wanted to bid on SCA projects to fill out lengthy self reports including whether the firm or any of its top officers had ever been investigated for business-related crime, ever been subject to a wiretap or grand jury subpoena, ever been arrested or convicted of any crime. The SCA informed the company that a "yes" answer did not mean automatic disqualification, but it might mean that a company with a checkered past would be disqualified or required to hire an IPSIG to monitor the integrity of their contract performance.

The SCA relied heavily, but not exclusively, on these self reports. In addition, it created its own database on organized crime figures and organized crime tainted firms based on information from court cases, government reports, newspaper articles, etc. It also obtained information from federal, state and local law enforcement agencies.

Information in court records is public information in the United States. Anybody can examine and copy court records. SCA disqualified more than 200 firms from bidding on SCA contracts and imposed an IPSIG requirement on dozens of others.

Other NYC agencies that sponsor construction could not adopt the SCA model because of New York State public procurement law that requires all contracts to be competitively bid and awarded to the lowest responsible bidder. While a contractor can be challenged for being non-responsible on integrity grounds, the process is subject to due process protections that can drag on for years, while the building project is stalled. Unlike the SCA, the City is not realistically able to exclude companies from bidding on future construction projects. However, it can and has required contractors to hire approved IPSIGS to monitor the conduct of their public construction projects.

The consensus view is that organized crime's influence in the construction industry is much diminished, but not eradicated. A number of construction unions are still subject to organized crime's influence. To the extent that organized crime has been purged from the construction industry (and, for that matter, other sectors of the legitimate economy), it is well to remember that at the same time as the administrative licensing and contract vetting counter measures were being implemented, there were scores of successful prosecutions and civil racketeering lawsuits of organized crime figures and their union allies.

Michael Woodiwiss: In your aforementioned book on the Teamsters, you discuss, among other things, the role and effectiveness of litigation in removing corruption from a private-sector organization. Since the near financial meltdown of 2008, several authors have argued that corruption in several financial sector organizations should have warranted an equivalent response but it didn't happen. How should decisions be made on such matters as whether or not an organization should be subject to litigation to limit corruption?

James Jacobs: *Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob* (2011) is a case study of the 25+ years of the civil RICO lawsuit against the top leadership of the International Brotherhood of Teamsters. The parties settled in 1989, but the court-supervised remediation has generated continuous litigation to the present day.

Over the last couple of decades, the SEC and federal prosecutors have brought dozens of civil and criminal lawsuits against various partnerships and corporations. They have settled many with “deferred prosecution agreements” (DPAs) that include a requirement that the defendant company undertake specified organizational reforms overseen by an independent monitor (IPSIG). There is a substantial scholarly literature on the desirability and effectiveness of these lawsuits.

The DOJ has guidelines setting out principles and criteria for when it is appropriate to bring such lawsuits and when appropriate to settle with DPAs.

Selected Publications of James B. Jacobs

“Street Gangs Behind Bars,” **Social Problems**, Vol.21, (1973-1974).

Stateville; The Penitentiary in Mass Society (University of Chicago Press, 1977).

Co-author with Ron Goldstock, Martin Marcus and Thomas Thacher III, **Final Report of the NYS Organized Crime Task Force on Corruption and Racketeering in the NYC Construction Industry** (New York University Press 1990).

Co-editor (with Cyrille Fijnaut) ***Organized Crime and its Containment: A Transatlantic Initiative***, (Kluwer, 1991).

Co-author (with Christopher Panarella and Jay Worthington III) ***Busting the Mob: United States v. Cosa Nostra***, (New York University Press, 1994).

Co-author (with Coleen Friel and Robert Raddick) ***Gotham Unbound: How New York City was Liberated from the Grip of Organized Crime***, (New York University Press, 1999).

Mobsters, Unions, and Feds: The Mafia and the American Labor Movement, (New York University Press, 2006)

Co-author (with Kerry Cooperman), ***Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob***, (New York University Press, 2011).