Busting the Mob
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Introduction

For most of the twentieth century, what has been called the "Mafia," "Cosa Nostra," or simply "organized crime" seemed as inevitable as increased taxes. Some Mafia chieftains even attained widespread public notoriety and were treated like folk heroes in their neighborhoods, cities, and beyond. People who understood power and "the way things worked" in New York and other large cities recognized organized crime as a key player in politics, vice, and legitimate industry ranging from shipping and trucking to garbage disposal and the garment trade.

Despite, or perhaps because of, its power and pervasiveness, with a few notable exceptions Cosa Nostra faced relatively little opposition from law enforcement. Local police forces did not have the resources, strategies, or tools to engage in long-term investigations of secret societies that carefully covered their tracks and insulated their leaders from scrutiny through hierarchical organization and a code of silence. Sometimes local law enforcement personnel, as well as prosecutors and judges, were dissuaded from organized-crime control initiatives by potentially adverse political or even professional consequences; sometimes they were just bribed. Remarkably, until well into the 1960s the FBI, under the leadership of J. Edgar Hoover, disputed the very existence of an American Mafia.¹

Congressional attention to organized crime dates back to the Kefauver
Committee hearings in 1951 and the McClellan Committee hearings in 1957. The Department of Justice began to focus on organized crime during Robert Kennedy's tenure as attorney general in the early 1960s. He sponsored antiracketeering legislation in the early 1960s. By the end of the decade Congress had passed the Organized Crime Control Act; Title III provided a comprehensive regimen for electronic surveillance by federal, state, and local police. After Hoover's departure from the FBI in 1972, that agency began to devote significant resources to organized-crime control. Various successes can be identified throughout the 1960s and 1970s, but there can be no mistaking the proliferation of achievements beginning in the late 1970s.

From approximately 1978, the federal government mounted an extraordinary effort to eradicate Cosa Nostra. Utilizing extensive electronic surveillance, undercover government agents, and mob turncoats, the FBI, the federal Organized Crime Strike Forces, and the United States attorneys' offices initiated a steady stream of intensive investigations and produced a regular flow of Cosa Nostra prosecutions throughout the country. The federal effort was supplemented by more limited, but not inconsequential, efforts by state and local investigative and prosecutorial agencies. Joint task forces involving federal, state, and local agencies became routine. No other period in American history comes close in terms of the number of investigations and prosecutions. Ultimately, whether this effort will prove sufficient to destroy Cosa Nostra or whether, phoenixlike, organized crime will rise from the ashes, remains to be seen. This introductory chapter seeks to place the government's organized-crime control efforts in perspective by examining what was accomplished, how, and why, and with what likely consequences for the future.

The Scope of the Government's Attack on Cosa Nostra

There is no exact figure on how many criminal and civil cases were brought by the federal government (much less state and local prosecutors) against organized crime in the 1980s. However, in 1988, FBI Director William Sessions reported to the Senate Subcommittee on Investigations that since 1981 nineteen bosses, thirteen underbosses, and forty-three capos (crew chiefs) had been convicted. Another witness, David Williams, director of the GAO's Office of Special Investigations, stated that between 1983 and 1986, there had been twenty-five hundred indictments of Cosa Nostra members and associates.

The magnitude of the government’s attack on Cosa Nostra is nothing
short of incredible. There were major prosecutions in every city where organized-crime families have been identified. The following is a list of Cosa Nostra bosses who were convicted between 1981 and 1992. (The list shows that several Cosa Nostra families have had more than one boss convicted during this period.)

1. Funzì Tieri—Genovese family in New York City
2. Anthony Salerno—Genovese family
3. Anthony Corallo—Lucchese family in New York City
4. Carmine Persico—Colombo family in New York City
5. Philip Rastelli—Bonanno family in New York City
6. Carlos Marcello—New Orleans family
7. Eugene Smaldone—Denver family
8. Joseph Aiuppa—Chicago family
9. Nick Civella—Kansas City family
10. Carl Civella—Kansas City family
11. Dominick Brooklier—Los Angeles family
12. Frank Balistrieri—Boston family
13. Gennaro Anguilo—Boston family
14. Russel Buffalino—Pittston, Pa., family
15. Nicodemo Scarfo—Philadelphia family
16. James Licavoli—Cleveland family
17. Michael Trupiano—St. Louis family
18. Sam Russotti—Buffalo crime family
19. John Gotti— Gambino family in New York City
20. Raymond Patriarca—Patriarca family in Providence, R.I.
21. Vittorio Amuso—Lucchese family
22. Vicorio Orena—Colombo family
23. John Riggi—DeCavalcante family in New Jersey

These federal cases, supplemented by some state and local prosecutions, systematically decimated whole organized-crime families. In New York City, the leadership and many soldiers of each of the five Cosa Nostra crime families (Bonanno, Colombo, Gambino, Genovese, Lucchese) were prosecuted in separate RICO suits on the theory that the defendants conducted the affairs of an “enterprise” (their respective crime families) through a pattern of racketeering activity (their many rackets, extortions, and crimes of violence). In United States v. Salerno, the heads of four of the five families, and several other key figures, were prosecuted together for constituting and operating a “commission,” in effect a regional and perhaps national board of directors for the mob.5
Some of the investigations and prosecutions had international dimensions, especially linking the investigatory agencies and efforts of the United States and Italy. The most famous of these cases was *United States v. Badalamenti*, in which a cooperative effort of American, Italian, Swiss, Brazilian, and Spanish law enforcement agencies closed down a massive international drug trafficking and money laundering conspiracy involving American Cosa Nostra and Sicilian Mafia groups.

The government not only put Cosa Nostra bosses, capos, soldiers, and associates in prison, but it also attacked mob-controlled enterprises, such as labor unions, construction companies, restaurants, and mobbed-up industries. Perhaps the modern era in the government's anti-organized-crime war dates to the FBI's massive UNIRAC investigation of the International Longshoremen's Association in the late 1970s. This labor racketeering investigation, the subject of special Senate hearings in 1981, resulted in the conviction of 130 businessmen, union officials, and Cosa Nostra members, including Anthony Scotto.\(^6\)

In 1982, the Newark Strike Force made history by filing the first civil RICO suit against a labor union, Local 560, the largest Teamsters local in the state and a union that had been dominated by organized crime through the Provenzano brothers and the Genovese crime family since the 1950s; the suit resulted in a court-imposed trusteeship, which gave the trustee extensive powers to run the union until the racketeering element could be purged and fair elections held. Six years later, the United States Attorney's Office in the Southern District of New York filed a civil RICO suit against the International Brotherhood of Teamsters (IBT), its general executive board, and the board's incumbents; under a consent decree that settled the case, the IBT agreed to a three-person trusteeship whose goals were to purge corruption and racketeering and to supervise a direct election of the president and general executive board. In New York City, as a result of civil RICO suits, court-appointed trustees and monitors were appointed in a half-dozen RICO cases involving historically mobbed-up unions.\(^7\)

The government also moved against mob-dominated businesses. New York City's largest concrete contractor, jointly owned and operated by several organized-crime families, was put out of business. As part of a consent decree between the United States Department of Justice and the Genovese crime family, the Fulton Fish Market was placed under the supervision of a court-appointed trustee.\(^8\) Similarly, mob control of the garment industry was addressed by a plea bargain between the Manhattan District Attorney's Office and the Gambino brothers, whereby they promised to sell off a substantial
portion of their garment-industry trucking interests and pay a $12 million fine; their trucking companies (which were also defendants) agreed to withdraw from an industry they had dominated for decades. The Brooklyn Strike Force’s investigation of the Bonanno family’s 25-year domination of New York City’s moving and storage industry led to convictions of the family’s boss, Phillip Rastelli, and fourteen other defendants, including the entire leadership of Teamster Local 814, and a number of executives of moving and storage firms.

There were similar victories over mob-controlled enterprises outside of the New York City metropolitan area. In 1981, Eugene Boffa, owner of a nationwide labor leasing business, was convicted and sentenced to twenty years’ imprisonment and ordered to forfeit assets worth $250,000 as well as his interest in the leasing corporations. The “roofers” case in Philadelphia resulted in a notoriously mobbed-up union being placed in trusteeship.

The prosecutorial attack on Cosa Nostra was supplemented and supported by high-visibility government hearings and inquiries that kept the spotlight on organized crime throughout the decade. From 1983 to 1987, the President’s Commission on Organized Crime held public hearings and issued twelve reports; among other things, it laid out the structure of the organized-crime families, documented their extensive involvement in drug trafficking and labor racketeering, and recommended that the Department of Justice bring a civil RICO suit against the International Brotherhood of Teamsters. The United States Senate’s Permanent Subcommittee on Investigations, under the leadership of Senator Sam Nunn, held dramatic hearings on the role of Cosa Nostra in legitimate industry and illicit rackets. The committee called hundreds of witnesses, including former Sicilian Mafia boss Tomasso Buscetta and ex-Cosa Nostra members Vincent Cafaro and Angelo Lonardo. They provided testimony on the history, customs, and operations of Cosa Nostra.

The unprecedented law enforcement attack and the intensive government attention paid to Cosa Nostra generated serious instability within the families. By the end of the decade, the inconceivable had become commonplace: Cosa Nostra members, even leaders, were agreeing to become cooperating government witnesses in exchange for leniency and admission into the Witness Security Program. A mob defector of the stature of Salvatore (“Sammy the Bull”) Gravano, underboss of the Gambino crime family, would have seemed unimaginable just a decade earlier. Defections added to problems of leadership succession and led to many intra- and interfamily assassinations. By the early 1990s, the accumulated prosecutions had been so extensive and
the internal deterioration of the families so severe that some law enforcement experts began to predict the end of Cosa Nostra.

How the Government Succeeded

The government's success can be attributed to powerful legal tools, personnel and structural changes in the Department of Justice and the FBI, the initiative of presidents and attorney generals during the 1980s, and the internal deterioration of Cosa Nostra itself.

Legal Weaponry

The most important legal weapons deployed in the government's attack on organized crime have been electronic surveillance authority, the Racketeer Influenced and Corrupt Organizations Act (RICO), and the Witness Security Program.

Electronic Surveillance

Title III of the Omnibus Crime Control and Safe Streets Act of 1968 provided comprehensive authority for electronic surveillance by federal, state, and local law enforcement agencies. The two main justifications for the act, according to its proponents, were the necessity for electronic surveillance in national security and in organized-crime investigations. Title III brought federal, state, and local wire tapping within the framework of a comprehensive statute. It permits electronic eavesdropping only with a judicial warrant issued upon a showing of probable cause and of necessity due to the absence of alternative means. The interception is limited to thirty days, although extensions can be obtained. The law requires "minimization"; the eavesdropping device must be turned off if, after a brief period of listening, it is apparent that the intercepted conversation is not relevant to the subject of the warrant. Amendments in 1986 strengthened the law and, for the first time, authorized "roving surveillance" to cover sophisticated criminals who use a number of different phones or sites to conduct business.

The sheer number of federal electronic eavesdropping orders increased over the course of the 1980s, peaking in 1984 and then jumping to an apparently new plateau in the 1990s. The absolute number of authorizations, however, is only a rough indicator of surveillance activity, because some of the interceptions lasted many months, covered multiple phones and locations, and resulted in the seizure of thousands of conversations.
<table>
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<tr>
<th>Year</th>
<th>Number of Court Authorized Electronic Surveillance Orders</th>
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<tr>
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Electronic eavesdropping figured prominently in almost every organized-crime prosecution of the modern period; some prosecutions were based almost entirely on intercepted conversations. The FBI and state and local agencies utilized both telephone intercepts and hidden microphones in cars, homes, restaurants, and social clubs. In some cases, the FBI was able to pick up conversations on the streets with high-power surveillance microphones. By the end of the decade, there was no place where Cosa Nostra members could converse without concern for government eavesdroppers.

Some of the major organized-crime investigations involved thousands of conversations intercepted over months. In the Pizza Connection case, actors were hired to read to the jury from hundreds of transcripts of intercepted conversations. Likewise in *United States v. Gotti*, the government introduced extremely inculpatory conversations between Gotti and his subordinates that had taken place in the Ravenite Social Club and in an apartment above the club.

**RICO**

The Racketeer Influenced and Corrupt Organizations (RICO) Act, part of the 1970 Organized Crime Control Act, created the most important substan-
tive and procedural law tool in the history of organized-crime control. A brainchild of Professor G. Robert Blakey (who worked on Senator McClellan's organized-crime hearings in the late 1950s and later with the Organized Crime and Racketeering Section of the Department of Justice when Robert F. Kennedy was attorney general) brought into existence a new kind of law punishing "enterprise criminality." RICO was explicitly aimed at organized crime, especially its infiltration of legitimate business. It took investigators and prosecutors some years to become fully familiar and comfortable with the new law; after 1980, almost every major organized-crime case was brought as a RICO prosecution. Moreover, the concept of enterprise racketeering changed the way organized-crime investigations were conceived and executed. The FBI began to think in terms of gathering evidence and obtaining indictments against entire "enterprises" like each organized crime family and the Cosa Nostra commission.

RICO makes it a crime to infiltrate, participate in, or conduct the affairs of an enterprise through a pattern of racketeering activity. An enterprise is defined as any "association in fact" comprised of two or more people. In United States v. Turkette, the United States Supreme Court held that an enterprise could be a wholly illegitimate group. This provided a green light for prosecuting individuals for participating in criminal syndicates like Cosa Nostra crews, families, and the commission.

Having to prove an "association in fact" in an organized-crime case provides prosecutors with an excellent opportunity to introduce extensive evidence, complete with charts and tables of organization, depicting the structure of an organized-crime family. In the Commission case and other organized-crime prosecutions, the government has been able to introduce testimony about the history of organized crime in order to establish the enterprise's existence over time. Angelo Lonardo's (former underboss of the Cleveland crime family) lengthy account of the history of the Cosa Nostra commission provided some of the most valuable evidence in the Commission case. In the Pizza Connection case, the prosecution used Tomasso Buscetta, a former leader of the Sicilian Mafia, to lay out the history and structure of both the Sicilian Mafia and the American Cosa Nostra.

RICO requires the government to prove that a defendant conducted or participated in the affairs of an enterprise through "a pattern of racketeering activity," defined as at least two racketeering acts committed within ten years of one another. A racketeering act (also called a "RICO predicate") is defined as virtually any serious federal felony and most state felonies. Thus, in a RICO trial, the defendant may find himself charged with all sorts of different crimes, allegedly committed at different times and places. The prosecution
need only prove that the defendant committed all these crimes in furtherance of the defendant's participation in conducting the affairs of the same enterprise. Critics complain that this puts a defendant at an enormous disadvantage because the judge or jury can hardly help concluding that he must be guilty of at least some of the diverse offenses being alleged, especially given his connection to a racketeering enterprise like Cosa Nostra. Proponents of RICO argue that it simply allows the government to present a complete picture of what the defendant was doing and why—instead of the artificially fragmented picture that traditional criminal law demands.

From the prosecutor's standpoint, another of RICO's advantageous procedural features is its ability to join all the members of a criminal enterprise in a single trial, even though they are not all charged with the same predicate offenses. For example, in a single trial some defendants may be charged with participating in the affairs of the enterprise (e.g., a Cosa Nostra crime family) through murders and loansharking, while others are charged with participating in the affairs of the same enterprise through drug trafficking. Moreover, where two or more defendants are charged with racketeering related to the same enterprise, a RICO conspiracy count can also be brought. The consequence is the potential for "megatrials" (like the Pizza Connection case) in which all the members and associates of a crime syndicate are tried together because two predicate offenses are alleged against each one of them. The advantages to the government are obvious; it can pour into the trial masses of evidence about murders, drug deals, extortions, labor racketeering, and so forth, allegedly committed by each defendant. The prosecution can present a complete picture of a large-scale, ongoing, organized-crime group engaged in diverse rackets and episodic explosions of violence. At the end of the trial, the jurors will be admonished not to allow evidence against one defendant to affect their judgment about the guilt of the others, but it is hard to believe that "guilt by association" is not a danger in such megatrials.

RICO also provides for very severe sentences: twenty years on each RICO violation and twenty years more for a RICO conspiracy. The defendant can also be sentenced for each of the predicate offenses. This sentencing structure made Cosa Nostra bosses in United States v. Salerno, the Commission case, liable to three hundred years' imprisonment for taking kickbacks from concrete contractors, although their actual sentences were a mere one hundred years each. In addition, RICO provides for severe fines ($250,000, or twice the loss/gain) and for the forfeiture of property (broadly defined to include businesses, offices, jobs, personal property, cars, boats, planes, and real estate) that has been acquired with the proceeds of racketeering activity. While it is by no means clear that Cosa Nostra bosses or families can actually
be "bankrupted," the combination of forfeitures, fines and million-dollar lawyers' fees must cause problems for organized crime's financial base and cash flow.

In addition to its criminal provisions, RICO contains powerful civil provisions. One of them allows RICO victims to sue for treble damages but, for obvious reasons, private parties have not opted to sue the mob. However, another provision has proven extremely important: it gives the federal government the right to sue civilly for wide-ranging injunctive remedies in order to prevent a RICO offense from continuing. In some labor racketeering cases, like the Teamsters Local 560 case and the Teamsters International case, government prosecutors elected to use civil rather than criminal RICO. Proceeding civilly, the government first has to prove that the defendant union officials and mob figures have been participating in the affairs of the union enterprise. Then it must show the pattern of racketeering activity by entering into evidence the defendants' past criminal convictions (if related to labor racketeering), or by proving that the defendants had committed or conspired to commit various labor racketeering offenses, including soliciting bribes, extortion, embezzlement of pension and welfare funds, and multifarious frauds. In some cases, the defendants' liability has been predicated on their aiding and abetting labor racketeering and other crimes by failing to take any action against officials whom they knew to be victimizing their unions.

Civil RICO suits are governed by civil procedure, which includes the opportunity for wide-ranging pretrial discovery. The government has the right to take affidavits from key defendants and defense witnesses and to look through masses of union or company books and records. Perhaps to avoid being exposed in this way, or simply to minimize their exposure at and after trial, union leaders have settled a number of civil RICO labor racketeering cases, like the Teamsters International case, resulting in complex court-approved consent agreements.

Civil RICO's focus is future oriented and preventative, not punitive. In effect, the judge can issue whatever injunction or other remedial orders are necessary to prevent further racketeering by the defendants. In the RICO labor racketeering cases, the government has sought to have courts appoint trustees to purge mobbed-up unions of the essential conditions that caused the racketeering problem and, in furtherance of that end, to help affected unions make the transition from a mob-dominated dictatorship to a democratic organization.

The RICO union trusteeships represent an evolutionary step in society's ability to cope with organized crime. In contrast to a successful prosecution that ends when the defendant is sent to prison, the court can put a trustee in
place for months or years to purge mob influence, root and branch. During
the remedial phase, some trustees have vigorously continued to investigate
mob influence in the unions that they supervise and have removed business
agents and other officials tainted by organized-crime ties (even though they
haven't been convicted of a crime). Other trustees have been less aggressive.

The success of court-appointed or court-approved trustees in purging
organized crime from traditionally mob-dominated unions is mixed. In these
cases, the trustee faces enormous problems in dealing with a deeply en-
trenched power structure that yields its power and privileges reluctantly, if at
all. Typically, and the Teamsters Local 560 case is an excellent example, the
government and the trustee find themselves repeatedly back in court seeking
further relief against obstructionist union tactics or defending themselves
against harassing litigation brought by the racketeer element within the
union. The results are not yet in on whether the trusteeships can break
organized crime's hold on mobbed-up unions, but they are the best mecha-
nism yet devised.

The Witness Security Program

Historically, the unwillingness of victims and other witnesses to testify
posed a major impediment to successful organized-crime prosecutions. Fear
of retribution was well founded since there were many examples of potential
witnesses' having been murdered or beaten. The Witness Security Program,
authorized in the Organized Crime Control Act of 1970, sought to guarantee
the safety of witnesses who agreed to testify for the government in organized-
crime cases.23

Run by the United States Marshalls Service, the Witness Security Pro-
gram applies to witnesses before, during, and after trial. It protects them
during their prison terms and, if they are released provides them with new
identities, jobs, and homes in new locations. This protection makes it feasi-
ble to testify against Cosa Nostra and survive.

The Witness Security Program has encouraged, or at least facilitated, a
number of major defections from organized crime. Up until the trials of the
1980s, no member of organized crime, with the single exception of Joseph
Valachi in 1963, had ever broken the code of "omerta" and gone public,
much less testified at a criminal trial against fellow Cosa Nostra members. In
the 1980s, facing the prospect of long prison terms, a number of mob figures
"flipped," agreeing to testify for the government in exchange for concessions
in the charges against them and admission into the Witness Security
Program.24

One of the first Cosa Nostra members to flip was Aladema ("Jimmy the
Weasel”) Fratianno, acting boss of the Los Angeles crime family; he testified for the government in the first RICO prosecution against a Cosa Nostra boss (United States v. Tieri) and later in the Commission case. Shortly thereafter, Angelo Lonardo, the one-time underboss of the Cleveland crime family, became a government witness, and also provided important testimony in the Commission case. The prosecution in the Pizza Connection case was assisted by the testimony of Tomasso Buscetta, a former high-ranking member of the Sicilian Mafia who agreed to testify for the Italian and American governments after his two sons and son-in-law were murdered by a rival Sicilian Mafia faction. Probably the most notorious Cosa Nostra member turned government witness is Sammy Gravano, Gambino crime family underboss and John Gotti’s long-time comrade. As part of his plea agreement with the government, Gravano admitted to having carried out nineteen gangland murders on orders from Gotti and other superiors.

**Structural Changes in the Department of Justice**

The Organized Crime and Racketeering section of the Department of Justice was formed in 1954–55. Robert Kennedy (who had been counsel to the McClellan Committee in the late 1950s) reactivated this unit when he became attorney general in 1961, making organized crime a top priority. In 1967, the Justice Department formed the Organized Crime Strike Forces, comprised of prosecutors and representatives of the federal investigative agencies in fourteen cities. Over the years they came to be led by seasoned federal prosecutors. The strike forces were separate and distinct from the United States attorneys; their attorneys in charge of each field unit reported to the head of the Organized Crime and Racketeering Section of the Justice Department. They concentrated more attention and resources on organized crime than ever before. According to their supporters, the strike force lawyers stayed in their jobs longer than the typical United States attorneys and assistant United States attorneys, developed more specialized expertise in organized-crime control, and were more successful in gaining the confidence of the FBI and other law enforcement agencies.

Nevertheless, up to the late 1970s and early 1980s, the strike forces were criticized for their inability to define organized crime, for pursuing low-priority targets, and for lacking the authority to control the activities of the investigative agencies upon which they depended. Soon, however, the strike forces began functioning more effectively, and the FBI significantly elevated its commitment to organized-crime control. The payoff soon became evident as success followed success. For example, UNIRAC (the inves-
tigation of racketeering in the Longshoremen's Association) started as a Miami Strike Force project and spread to New York City and ultimately up and down the East Coast. Operation BRILAB was directed by the New Orleans Strike Force and involved strike force attorneys in New Orleans, Los Angeles, and Washington, D.C. It resulted in the conviction of Cosa Nostra boss Carlos Marcello and numerous other organized-crime members and associates.

From the outset, the strike forces were anathema to many of the United States attorneys in whose jurisdictions they operated. Historically, the United States attorneys decided how prosecutorial resources were deployed and who would prosecute what cases. Many United States attorneys, therefore, objected to the strike forces' independence. When Richard Thornburgh, a former United States attorney in Pittsburgh and a strike force opponent, became attorney general in 1988, he moved immediately to disband the strike forces and transfer their mission and personnel back to the United States attorneys. Although there was some opposition in Congress, which held hearings on the issue, the strike forces were disbanded in 1989. Many experienced strike force prosecutors resigned from the Justice Department. Whether this will mean a diminution of effort against Cosa Nostra or a more efficient deployment of resources remains to be seen.

Developments in the FBI

One reason for the success of the FBI's organized-crime program was its ability to develop an intelligence base on the structure, makeup, and activities of Cosa Nostra over many years and to disseminate intelligence from one field division to another. This was facilitated by the development and implementation of the Organized Crime Information System (OCIS), a computer network (initiated in 1980) designed to collect, evaluate, store, and disseminate organized-crime intelligence information.

Given the concentration of Cosa Nostra families and members in New York City, the New York City FBI office was, not surprisingly, the Bureau office most involved in organized-crime investigations throughout the 1980s. In 1979, that office's coordinator of organized-crime investigations, James Kossler attended G. Robert Blakey's summer institute on organized crime at Cornell University. Blakey explained how RICO could be used to attack Cosa Nostra and argued for the targeting of organized criminal enterprises. Kossler, maintaining close touch with Blakey, redeployed resources on New York City's five Cosa Nostra crime families. Under operation GENUS teams of FBI agents were assigned to develop intelligence on each family. Each team's job was to develop a table of organization for each family, identify all
the members and their status in the organization, and then determine which rackets and industries the family was involved in. After that, the prosecutions would fall into place. By the mid-1980s, the New York FBI office had 165 agents assigned to the organized-crime division.

FBI agent Joseph Pistone’s penetration of the Bonanno family in New York City from 1976 to 1982 constitutes one of the most extraordinary chapters in the modern history of law enforcement’s attack on Cosa Nostra. No law enforcement agent had ever before been able, through disguise and guile, to get so deeply inside a Cosa Nostra family. Indeed, that the FBI would even attempt to place a secret agent in the ranks of organized crime reveals how committed, confident, and creative the agency had become.

Pistone hung out at the bars and restaurants frequented by organized-crime members and associates. Eventually, he was noticed by organized-crime figures, whom he cut in on a number of phony schemes. In the course of some of these “crimes,” he was able to bring other agents into contact with members of Cosa Nostra. Pistone’s undercover operation lasted six years; just before he had to surface and break his cover, he was promised induction into the Bonanno family. Pistone provided a mountain of intelligence material and served as a witness at a number of key Cosa Nostra trials, especially the Commission case. No doubt, this infiltration was a blow to Cosa Nostra morale, raising doubts about how many of its secrets had been revealed.

Cooperation among Federal, State, and Local Law Enforcement Agencies

Historically, effective organized-crime control was severely hampered by bitter rivalry among the federal, state, and local law enforcement agencies. Each agency distrusted the others, even to the point of charging that rival agencies were neither secure nor trustworthy; frequently, each felt that the others were trying to seize credit unfairly for successes. The history of American law enforcement, especially in combatting organized crime, is replete with lost opportunities due to inability or unwillingness to reach interagency agreements.

Beginning in the 1970s, joint federal, state, and local task forces began to make significant headway in overcoming agency parochialism. In 1970, the National Council on Organized Crime was established to formulate a strategy to eliminate organized crime. While the council failed to formulate a national strategy, it mobilized attention to the problem of interagency relations. The federal strike forces made major strides in coordinating the efforts of federal prosecutorial and investigative agencies and also, by promising to
cover costs of joint investigations, were very successful in involving state and local agencies in their operations. In 1976 the National Organized Crime Planning Council was formed to facilitate planning and coordination between the strike forces and the federal law enforcement agencies. In 1980, the Executive Working Group for Federal-State-Local Prosecutorial Relations was initiated. It provided the first formal liaison between the Department of Justice, the National District Attorneys Association, and the National Association of Attorneys General for the purpose of improving relations between the federal, state, and local prosecutors.

These formal institutional mechanisms of cooperation were supplemented and reinforced by many informal multiagency working arrangements. In New York City, FBI Agent-in-Charge James Kossler worked out an immensely valuable agreement with Deputy New York City Police Commissioner Patrick Murphy whereby the Bureau and the New York Police Department agreed to share resources, intelligence, and coordinate their investigations. The agreement married the Bureau's substantial budgetary resources and sophisticated intelligence apparatus with the NYPD's street-level intelligence and highly developed informant system. NYPD detectives were able to confirm FBI intelligence hypotheses and provide leads for identifying crime family members, their roles, and criminal activities.

The organized-crime squad in the New York City Police Department began to cooperate much more harmoniously and effectively with its FBI counterparts and with state agencies like the New York State Organized Crime Task Force. This kind of interagency cooperation was instrumental in initiatives like the investigation of the Fulton Fish Market, the massive investigation of the Pizza Connection, and the preparation of the Gotti prosecution.

The practice of "cross-designating" prosecutors from one agency to prosecute on behalf of another agency also proved to be a major breakthrough in interagency cooperation. This practice allows state and local prosecutors who have worked on an investigation to follow the case if it becomes federal and vice versa. For example, after Paul Castellano was assassinated, Pat Ryan of the Manhattan District Attorney's Office was cross-designated as an assistant United States attorney in the Southern District and Walter Mack from the Southern District United States attorney's office was cross-designated as an assistant district attorney in the Manhattan District Attorney's Office. This proved to be an enormously valuable mechanism for investigating the Gotti case that was eventually turned over to the United States attorney for the Eastern District of New York.
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Why the 1980s?

Why did the government's attack on Cosa Nostra reach its zenith in the 1980s? Perhaps the 1980s' successes were simply the culmination of an organized-crime control process that began in the 1950s and steadily gained strength and momentum thereafter. Perhaps the 1951 Senate hearings organized by Senator Kefauver, the 1957 revelation of a secret meeting of organized-crime bosses from all over the country at Apalachin, New York, Kennedy's tenure as attorney general, the Valachi revelations, and the passage of organized-crime control legislation provided the foundation for a gradual, sometimes halting, process that led to the investigations and prosecutions of the 1980s. This "explanation," however, does not focus on key decisions or decisionmakers or major shifts in formal policy. It interprets organized-crime control initiatives as having "evolved" or "matured," perhaps following their own internal logic or time clock. Those who favor such an interpretation tend to speak in terms like the following: "It took ten years for federal prosecutors to learn to use RICO."

We believe that the evidence will ultimately support a different hypothesis, albeit one that could be reconciled with the evolutionary hypothesis. While maturation, evolution, and internal logic are certainly part of the story, there were also key decisions and decisionmakers who consciously chose to make organized-crime control an important priority despite relentless pressure to accord preference to other crime problems.

The attitude, politics, priorities, and policies of presidents and the attorneys general have surely had an impact on federal organized crime-control initiatives. The president can have a positive impact via his choice of attorney general and FBI director, his support for enhanced crime-control budgets, and his "jawboning" on organized-crime themes. On the other hand, a president can have a negative impact if, for political or other reasons, he chooses an attorney general disinclined to pursue organized crime or makes it clear to the attorney general and other subordinates either that attacking organized crime is not a priority or that some other goals are higher priorities.

Likewise, the attorney general can have great impact on organized-crime control by lobbying or not lobbying for legislation (e.g., RICO, electronic eavesdropping, Witness Security Program) and by allocating or not allocating substantial resources to the Organized Crime and Racketeering Section. While the United States attorneys have some independence from the central Justice Department, there is little doubt that the attorney general has the power to establish priorities through persuasion and manipulation of resources.
Robert F. Kennedy, for example, was highly committed to a full-scale attack on organized crime. He had played a key role during the McClellan hearings and was extremely well informed about the Mafia, especially its role in the Teamsters and other labor unions. Prosecuting Jimmy Hoffa was a top priority of his administration. Furthermore, Kennedy quadrupled the Organized Crime Section and encouraged it to move aggressively against organized crime. By contrast his successor, Ramsey Clark, had little interest in organized-crime control and opposed electronic surveillance.

The Reagan administration seems to have been the most aggressively anti-organized crime since the Kennedy administration. In one speech on the subject, Reagan announced his commitment to attacking organized crime and described a special cabinet session he called to address the problem on September 30, 1982.

Attorney General William French Smith . . . talked not only about the steady rise in street crime over two decades but the growth and increasing sophistication of regional and national networks of professional criminals. He described the alarmingly successful attempts of these networks to corrupt legitimate business, unions, political figures and members of law enforcement and government agencies. He made it clear that career criminals had not only grown bolder in their activities but were continuing to extend their reach ever deeper into law-abiding sectors of our society, buying and bribing their way to the kind of official protection and respectability that would permit them to operate their criminal undergrounds with impunity.

According to Reagan, this special cabinet decided that the Justice Department would “more vigorously prosecut[e] the mob, including use of the RICO statute to confiscate more of its financial assets . . . and [forge] closer co-operation with state and local law enforcement agencies, including new training programs at a federal facility in Glyncro, Georgia, that would focus on the mob’s new and more sophisticated tactics.” Moreover, Reagan appointed a presidential commission to determine what else might be done to further the anti-organized-crime effort.

Two General Accounting Office (GAO) reports, in 1976 and 1981, criticized the Ford and Carter administrations’ Justice Departments’ organized-crime control effort for failing to concentrate on Cosa Nostra and for failing to engage in strategic planning and cooperative ventures with other agencies. There were no similar GAO criticisms thereafter, which lends support to the hypothesis that after 1981, the Justice Department got its organized-crime-control program on track.

Policy is also made by each of the ninety-two United States attorneys, who have historically enjoyed a great deal of independence in running their
In 1983, Rudolph Giuliani left a top position in the Department of Justice to become United States attorney for the Southern District of New York. Ultimately, it was the Southern District United States Attorney's Office, under Giuliani, that brought the Commission case, four family RICO cases, the Pizza Connection case, and the Teamsters International case as well as many others. Whatever debate there might be about the impact of presidents and attorneys general in making organized crime a higher priority, there is no doubt about Giuliani's importance.

The FBI's priorities were also crucial to the history of organized-crime control. Clearly, Hoover was not interested in taking on Cosa Nostra. However, at least one, perhaps all, of his successors must have seen an attack on organized crime as consistent with and even central to the agency's mission. The investigations that took place from the late 1970s onward could not have occurred without the strong support of the FBI directors. Moreover, the priorities and decisions of other FBI officials, especially in New York City, are sure to figure prominently when the full history of this law enforcement effort is finally written.

Goldstock's thesis deserves serious consideration because of its plausibility and the author's expertise. All organizations experience change resulting from leadership transitions, alterations in environment, and oscillations in the economy. Some changes are merely deviations from long-term patterns and others permanent changes in goals, priorities, strategies, and culture. Goldstock believes cultural change has diminished organized crime's capacity to carry out its goals and strategies effectively. The strongest evidence in favor of Goldstock's thesis is the apparent breakdown of omerta, the code of silence, and the willingness of scores of mobsters to cooperate with the
government. This certainly reflects some sort of change, either much more powerful and effective law enforcement than ever before (including especially the draconian RICO sentences) and the possibility of defecting without being killed (thanks to the Witness Security Program) or a different attitude among Cosa Nostra members about the importance of loyalty to their organization.

While plausible, Goldstock's thesis is difficult to evaluate because it is hard to compare the "values" of yesterday's organized-crime leaders, middle managers, and soldiers with today's. There is a tendency in many contexts to romanticize the values and accomplishments of past generations. Just as many of us do not believe that this generation's political leaders or college presidents measure up to their counterparts of the past, so it is not surprising that Joe Bonanno believes that today's mob leaders are less capable and worthy than he.

This romanticizing tendency is compounded by the methodological error of comparing all (or the average) of today's leaders with only the best of yesterday's leaders. Not all of yesterday's mob members and bosses were like Marlon Brando's depiction of a man of honor in *The Godfather*. The Goldstock thesis is intriguing, but it needs to be carefully and critically examined.

**Organized-Crime Control and Civil Liberties**

Whatever one thinks of the events examined in this book, *United States v. Cosa Nostra* is not a case of law enforcement agencies' ignoring or taking the law into their own hands; rather it is an example of how substantive and procedural criminal laws have been expansively amended and recast in order to provide law enforcement agencies powerful means for defeating Cosa Nostra and other organized-crime groups. While some observers may applaud the government's attack on Cosa Nostra as an impressive example of how a democratic government can defeat an immensely powerful crime syndicate while respecting the rule of law and due process of law, other observers may conclude that the rule of law and important principles of fairness, due process, and substantive justice have been stretched too far in the relentless effort to put the leaders of Cosa Nostra behind bars. Such critics would point to the expansion of accessorial and conspiratorial liability under RICO, electronic eavesdropping, grand jury subpoenas, making deals with dangerous and reprehensible criminals, mass trials, and draconian punishments as too great a price to pay, even for the dismantling of Cosa Nostra.

Politicians have shown no concern for the privacy or justice of organized-crime figures. Senators and representatives have competed with one another to be toughest on organized crime. The only doubts raised in
congressional debates over organized-crime legislation have involved the possibility that organized-crime-control tactics would be used against people other than organized-crime members, especially unpopular political groups.

Cosa Nostra members have been demonized in Congress and defined as social pariahs against whom extraordinary rules ought to apply. Thus, a system of substantive and procedural law has evolved so that once a person is identified as head of an organized-crime family, there is usually probable cause to bug his home and car and tap his phones. Under RICO the crime boss can practically be automatically charged with participating in an enterprise (his crime family) through racketeering activity (the crimes committed by his underlings). No matter what the underlying crimes proved against him, the sentencing law is structured so that the boss can be imprisoned for a very long time, probably for life.

For the most part, the appellate courts have not rejected the government's aggressive use of RICO and other anti-organized-crime tactics. The appellate courts are loathe to reverse a conviction resulting from many months of trial against a defendant whom "everybody knows" is a major organized-crime figure. Even when they are obviously troubled by such things as megatrials and status crimes, the appellate judges have upheld organized-crime convictions, while expressing their "doubts" and "concerns."

Civil libertarians have rarely chosen organized-crime cases to challenge government over-reaching and abuse of authority. Indeed, from a civil liberties standpoint, major organized-crime cases provide the worst set of facts on which to test the propriety and constitutionality of new law enforcement and crime control tactics. Perhaps there is an implicit assumption that the rules are different in organized-crime cases. Perhaps it is generally accepted that Cosa Nostra bosses and members assume the risk of (and have no justifiable complaint about) whatever law enforcement tactics the legislative and the executive branches come up with.

Rather than defend the rights of organized-crime figures, civil liberties groups have often warned against and opposed the tactics designed for the "war on organized crime" on the ground that they would inevitably be used in other contexts, especially to chill bona fide political expression. In fact, organized-crime-control devices, from conspiracy law to RICO, and from electronic eavesdropping to criminal and civil forfeitures, have inexorably seeped into other contexts. One reason for this is the plasticity of the term "organized crime." Many kinds of criminality can plausibly be labeled organized crime. The RICO statute, for example, has frequently been used against non-Cosa Nostra defendants who, under even the broadest definition, could not be linked to an organized-crime group. Furthermore, the use
of civil RICO provisions in disputes among corporations has triggered repeated, albeit unsuccessful, efforts to reign in the reach of the statute. If anything, however, the tactics that have proven so successful against Cosa Nostra are being transplanted to the war against drugs, and even to “wars” against official corruption, violent crime, and pornography.

The Future of Organized Crime

After each of the major organized-crime cases presented in this book, some law enforcement officials and academic observers predicted that America was on the threshold of defeating Cosa Nostra. While one cannot help being impressed by the government’s overwhelming successes in organized-crime prosecutions across the United States since 1980, one must also be impressed by Cosa Nostra’s power and expansive reach as evidenced in the testimony, wiretaps, and physical evidence that have been adduced in these same trials. It is sobering to consider that, at least until recently, Cosa Nostra exerted powerful influence over the nation’s largest union (the Teamsters), several other important national unions (Longshoreman’s Association, Hotel Employees and Restaurant Employees International Union, and the Laborers International Union of North America), the New York City/New Jersey waterfront, the Fulton Fish Market, the New York City construction industry, garment industry, and trash-hauling industry, and numerous other businesses throughout the country. Over the last several decades, Cosa Nostra leaders have stood at the side of mayors, governors, and even presidents. The sum total of this much influence and power makes organized crime a significant part of the political economy of the United States.

Unfortunately, there is no systematic way to determine how successful the government’s organized-crime-control campaign has been, much less will be, in weakening or eliminating Cosa Nostra or in reducing the amount of racketeering and harm associated with Cosa Nostra. There are no systematic and reliable data on the health, wealth, and power of Cosa Nostra as a whole or of its individual crime families. Hundreds of Cosa Nostra members have been sentenced to long prison terms, but we do not know whether replacements have or will move into their vacated roles. Many law enforcement professionals see the Cosa Nostra families as being in disarray and in permanent decline. But these observations are generally ad hoc and not part of systematic nationwide intelligence gathering and analysis effort. Electronic monitoring, computer systems, and the emergence of well-trained organized-crime-control units and specialists make conceivable the implementation of an extensive intelligence operation. But resources and technology have to be
supported by political will and organizational commitment. The danger is that attention will be drawn away from organized-crime control to other pressing law enforcement priorities and that, while the law enforcement machinery sleeps, Cosa Nostra will reconstitute itself. Finally, even if Cosa Nostra as an organization has been substantially weakened, we obviously cannot be sure that Cosa Nostra's racketeering activities have not been (or will not be) taken over by newly emerging crime groups, thereby negating any reduction in racketeering or societal harm.

Many of the economic and social forces that allowed organized crime to achieve such immense power are still operative. The citizenry's demand for illicit goods and services remains strong. Many unions remain vulnerable to labor racketeering, and those that have been "liberated" from organized crime have been very slow to repudiate their mob ties, if they have done so at all. Thus, it may be premature to predict that the investigations and trials of the 1980s constitute the beginning of the last chapter in the history of Cosa Nostra. Whatever the future may hold, the period from the late 1970s to the early 1990s has been marked by the most concerted and sophisticated attack on organized crime in the history of the United States. The goal of this book is to begin the herculean task of documenting, explaining, and critiquing this recent history so that it will be available to this and future generations of students, scholars, and members of the public who are interested in organized crime in American society.

Notes

1. Hoover's resistance to investigating or even recognizing the existence of organized crime has been very well documented. See, e.g., J. R. Nash, Citizen Hoover, chapter 6, "The Organization That Didn't Exist" (Hall, 1972); Arthur M. Schlesinger, Jr., Robert Kennedy and His Times (Ballantine, 1978).

2. A useful, if somewhat abbreviated, chronology of milestones and major prosecutions is Department of Justice, Criminal Investigation Division, Organized Crime Section, Chronological History of la Cosa Nostra in the United States: January 1920–August 1987 (Washington, D.C., October 1987).

3. The fact that these FBI statistics did not include consiglieri, advisors or counselors to the bosses, is indicative of the lack of a systematic and comprehensive official reporting system for organized-crime prosecutions.

4. This could mean twenty-five hundred separate "counts" charged against a much smaller number of individuals (although some individuals were charged in several different indictments). It seems implausible that twenty-five hundred different organized-crime members were charged in criminal cases, since this would constitute
most of the members. However, twenty-five hundred might be a plausible number if mob "associates" are counted, since the number of associates far exceeds the number of "made" members.


6. Other major labor racketeering investigations of the late 1970s were (1) "PENDORD," which focused on Cosa Nostra control of the Teamster Central States Pension Fund and which resulted in the conviction of the Teamsters' president, Roy Williams; (2) "STRAWMAN," which focused on a conspiracy by four Cosa Nostra families to utilize the Central States Pension Fund to secure interests in Las Vegas casinos and to skim profits from those businesses; (3) "LILREX," which focused on racketeering in the New York City construction industry; and (4) "LIUNA," which focused on Cosa Nostra racketeering in the Laborers International Union of North America.


The local unions placed under trusteeships are Local 6A of the Cement and Concrete Workers of the Laborers International Union of America; District Council of Carpenters; Teamsters Local 814; United Seafood Workers Local 359; (Philadelphia) Roofers Union Local 30-30B, and Local 1814 of the International Longshoreman's Association. Local 100 of the Restaurant Workers Union, charged with being dominated by the Gambino family, was spared a court-appointed trustee when the judge permitted the union voluntarily to install a union international vice-president as trustee.


13. Permanent Subcommittee on Investigations of the Committee on Govern-
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mental Affairs, Twenty-Five Years after Valachi, 100th Cong., 2d sess., 11, 15, 21, 22, 29 April 1988.


19. The first RICO conviction of a Cosa Nostra family boss was United States v Frank (Funzi) Tieri in 1981.

20. 452 United States 576 (1981). Prior to Turkette, it was plausible to argue that RICO required proof of racketeer infiltration of a legitimate business, union, or governmental organization. After Turkette, RICO could be used to prosecute any ongoing criminal group.

21. This history had been previously and remarkably revealed in mob boss Joseph Bonanno’s memoir, A Man of Honor (Simon and Schuster, 1983).


30. For an excellent example of how tenacious attention to Paul Castellano, because he was boss of one of the crime families, contributed to the Gambino and Commission RICO prosecutions, see Joseph O’Brien and Andris Kurins, *Boss of Bosses* (Simon and Schuster, 1991).


36. In 1968, a strike force had been created for the Southern District of New York, but in 1976 it was merged into the United States Attorney’s office by then Assistant Attorney General Richard Thornburgh.

37. After Hoover, the succession at the FBI has been as follows: Patrick Gray (acting director 1972–73); William Ruckelshaus (acting director 1973); Clarence Kelley (director 1973–78); William Webster (director 1978–87); William Sessions (director 1987–93); Louis Freeh (director 1993–).


40. According to Jimmy Fratianno, Bonanno was made persona non grata by the commission some time in the 1970s. According to his account, any Costra Nostra
member who had contact with Bonanno was subject to capital punishment. Fratianno
does not say why Bonanno had this falling out with the commission.

41. See, e.g., Sellwyn Raab, The Mob in Decline—A Special Report: An Ailing
and Battered Mob Is Losing Its Grip on America, New York Times, 22 October

42. See Michael D. Maltz, Measuring the Effectiveness of Organized Crime
Control Efforts (Office of International Criminal Justice, 1990); Herbert Edelhatz,