

# Chapter 1

## An Introduction to Organized Crime

### Objectives

After completing this chapter, readers should be able to:

- Describe the differences between organized and disorganized crime.
- Explain why defining organized crime is important to law enforcement.
- Compare the United States' definitions of organized crime with those of other countries.
- Discuss state and federal legislation that address organized crime.

### Defining Organized Crime as Part of the Process of Investigation

What is organized or syndicated crime? Why is it important for the criminal investigator to identify a target as organized crime? These questions must be answered before successful strategies, laws, and techniques can be developed for use in any successful investigation of a group of individuals engaged in criminal activity.

During the years when J. Edgar Hoover was the Director of the Federal Bureau of Investigation (FBI; 1924–1972), Americans debated whether organized crime actually existed. Later, organized crime became synonymous with the American Mafia. But the true nature and scope of organized crime is the insidious dynamic between those using

ruthless methods (including corruption and murder) to increase their profits and an insatiable public hunger to purchase illegal goods and services.

Organized crime can be defined by the members and the activities of a group. Although organized crime might potentially be involved in many crimes, what separates individual crime from crimes committed by groups of people is the term *organized* or *organization*. Organization has been described as a group of people who cooperate to accomplish objectives or goals. Max Weber, known as the “father of sociology,” examined the elements of an organization. Weber (1947) lists rules, specialization and specialized training, a division of labor, a hierarchy of authority, and continuity or routinization as the parts of a structure necessary for the efficient function of bureaucracies.

Organized crime has incorporated many successful principles utilized by legitimate business organizations:

- A unit of command: a superior to whom one is directly responsible
- The principle of definition: clearly defining authority and responsibility
- The span of control: a limited number of people controlled by a supervisor
- The principle of objective: defining the purpose of the organization or the business that is undertaken (i.e., drugs, murder for hire, extortion, gambling)
- Insulation and the need-to-know principle: personnel have contact only with their immediate boss and peers
- A pyramidal structure: orders flow down the hierarchical chart and important decisions are made at the top
- The principle of specialization: members of organized crime are experts in a single job function
- Rules: omerta (vow of silence, never talking to police) and the process of becoming a member of an organized crime group

As with legitimate organizations, no two organized crime groups are exactly alike. Each group evolves in its own manner. Crime organizations require supervision and management to implement strategies that accomplish the goal of profit. Personnel administration is critical to organized crime, just as it is to legitimate business organizations. Crime organizations remain bureaucratic, with an autocratic leadership that employs punishment for failure, and monetary reward and promotion for success. Many organized crime members also are motivated by a need for esteem, power, and recognition.

### A Working Definition for Organized Crime

The 1986 President’s Commission on Organized Crime concluded that a working Definition must contain characteristics of both the activities and the group. Many countries and states include the structure of the group in their definition. The term *working definition* is useful to the investigator. Many police departments as well as state and federal

agencies have dedicated resources to the investigation of organized crime. For the investigator, these resources are essential to the success of an organized crime investigation.

Resources such as personnel, money, equipment, and time are major considerations in an organized crime investigation. Classifying, identifying, or defining a group as a crime organization usually requires an extensive investment by the agency or department—a task often made more difficult by a scarcity of resources. Once a group is declared to be engaging in organized crime by a law enforcement entity, multi-agency and federal support is likely to become available. The original case officer or agent may lose much control over the direction of the case or even be directed to go back to his or her normal duties, and allow the major case squad or agency to take charge of the case. Ideally, the supervisors would allow the originating officer or agent to be a part of the investigative team. Because special equipment and technology (such as electronic eavesdropping, remote sensing, and night or low-light vision equipment) are very expensive, however, use of these resources will most likely be handled by major case squads or federal or state agencies. Money is certainly the major factor in informant development, overtime pay, and use of special vehicles. These investigations may continue for years and require large numbers of officers and staff. It is easy to understand why organized crime investigations are not small support unit operations with limited resources. Therefore, the investigator must understand thoroughly and meticulously articulate why a group meets the organized crime definition to obtain the resources needed for a successful investigation.

## Definitions of Organized Crime

The definition of organized crime varies from agency to agency, from federal to state, and from state to state. An investigator must be sure to use the same definition employed by the jurisdiction or agency in which the case is worked. Each element of the statute or definition must be articulated clearly to ensure the necessary resources and investigative support from the proper agencies are obtained. Defining organized crime accurately also will help in determining solutions for unique problems arising from a long-term and complex investigation. These cases often require long-sitting grand juries, informant protection, special prosecutors, extensive undercover operations, and extraordinary surveillance techniques.

It is important for investigators and resource allocators to agree upon a definition of organized crime when distinguishing it from other criminal activity. A well-defined problem can link an initial investigation to the current evolution of organized crime. The group in question may be a transnational or even international criminal organization requiring international cooperation and assistance. The proper definition refers to acts that are both *mala in se* and *mala prohibita*, and includes detailed information about how these activities became organized. The investigator must have an understanding of not only the academic definitions of these issues, but also the legal definitions.

Finding a comprehensive definition of organized crime is difficult and requires the investigator to synthesize definitions from both academia and the legal community.

There are also differences in world perceptions of organized crime (Albanese, Das, and Verma, 2003). If investigations are conducted outside the United States, knowing the other country's legal and academic definitions of organized crime is essential for obtaining assistance from the foreign government.

The advantages of synthesizing definitions of organized crime are as follows:

- Develops strategies and techniques for effective investigation
- Gains appropriate resource allocation to complete a long-term investigation
- Obtains cooperation and assistance regionally, nationally, and internationally
- Increases the investigator's understanding of the particular criminal group
- Prepares the investigator to address the sophistication, activities, and structures of organized crime
- Increases the understanding of the motivations that drive those involved in both case strategy and the judicial process
- Copes with the ever-present aspect of corruption
- Develops proactive solutions to prevent organized crime from becoming involved or controlling legal enterprises
- Predicts future organized crime trends and activities

Definitions provide understanding and often lead to effective solutions to problems that arise during the investigation. The investigator who can synthesize numerous and diverse definitions becomes more effective because of the deep knowledge of the magnitude and complexity of the target: organized crime.

## Investigation Definitions

The investigator can use a variety of terms to define organized crime. While these terms are similar in some respects, each provides a different insight into what it means to the investigator.

**Consortium** has been defined as “the union of fortunes, or the joining of several persons as parties to one action” (*Black's Law Dictionary*, 1990). A broader definition is “an agreement among or the combination of groups to undertake an enterprise beyond the resources of any one member” (*Webster's Ninth New Collegiate Dictionary*, 1983).

**Cartel** is “a combination of producers to control, monopolize, and restrict competition of the sale and price of a particular product or service” (*Black's Law Dictionary*, 1990).

**Syndicate** refers to an association of individuals who wish to carry out a business transaction, usually financial in nature. The risk of any single investor is diminished because of this partnership.

**Organization** also refers to two or more persons forming an association to conduct business. Individuals organize to function as a whole to become more effective and efficient.

A **gang** is “a company of persons who act in concert for criminal purposes (*Black’s Law Dictionary*, 1990). Gangs are organized entrepreneurs who reinvest profits into the gang. These structured organizations market their illicit goods and services to make huge profits (Taylor, 1990). Other authors view gangs as disorganized individuals who form alliances to make money for each member (Fagan, Kelly, and Chin, 1989). Gangs have been described by law enforcement as organized groups with a recognized leader and a less powerful under-command. Their activities are viewed as criminal and a threat to society. Street-gang mentality includes what is often referred to as the “three R’s”: reputation, respect, and retaliation. (Note that the three R’s are characteristics found in almost all organized crime groups.) The Texas penal code defines a gang as follows: “Three or more persons having a common identifying sign or symbol or an identifiable leadership who continually or regularly associate in the commission of criminal activities” (“Texas Statutes and Codes Annotated,” 2003). Some street gangs have reached a level where they could be classified as engaging in organized crime, but this classification is debated even today.

Complex criminal groups may be classified as organized crime, syndicated crime, cartel, consortium, or gangs. How each group is classified remains the subject of debate. One author may refer to the “Bloods” or the “Disciple Nation” as a gang, while another refers to them as organized crime. The most important point for the criminal investigator to know is the specific definition that the resource allocators employ to make their decisions.

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## Organized Crime as Defined by Laws, Agencies, and Governments

Organized crime is defined differently depending on the perspectives of the legal profession, academia, government commissions, and other writers. Although some definitions are similar, there is no consensus of what defines a group as an organized crime group. In fact, there is no agreement that organized crime can be fully defined at all. Attempts by the legal community include the following:

Organized crime means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services including, but not limited to, gambling, prostitution, loan-sharking, narcotics, labor racketeering and other activities of members of organizations. (Omnibus Crime Control and Safe Streets Act of 1968)

The FBI describes organized crime as a continuing criminal conspiracy with an organized structure that is successful because of its use of fear, corruption, and violence. The motivation behind this conspiracy is greed (Bill McMath, FBI, personal communication, August 2, 2001). This definition is very similar to that given by the President’s Commission on Organized Crime in 1986. The FBI considers the following groups to be organized crime, and they are top priority targets for FBI agents:

1. La Cosa Nostra
2. The Russian Mafia

3. The Mexican drug cartels
4. The South American drug cartels
5. Asian organized crime groups
6. Major national gangs (“Bloods,” “Crips,” biker gangs, and so on)

The Racketeering Influenced and Corrupt Organizations (RICO) statute describes acts of organized crime as “acquiring or receiving income from a pattern of racketeering through a criminal enterprise” (18 U.S.C. 1961). Federal and state RICO statutes include both civil and criminal remedies for these acts. Congress passed the federal RICO statute in 1970 as Title IX of the Organized Crime Control Act of 1970 (Public Law 91-452).

Conspiracy to violate RICO is included in both the federal statute and many state statutes. *Conspiracy*, which may be defined as the agreement between two or more people to commit a criminal violation, helps to describe the operation of criminal groups such as organized crime. Investigators must understand the concept of conspiracy and be able to apply the conspiracy statutes to effectively address organized crime.

Two other laws that help to define organized crime activities are the Continuing Criminal Enterprise (CCE) statute and the Money Laundering Control Act of 1986 (U.S. Codes 21 and 18). The CCE statute was part of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and is directed at any person who “occupies a position of organizer, supervisor, or any other position of management” in a narcotic-producing or distribution enterprise such as organized crime. The Money Laundering Control Act created two new offenses that are common to organized crime during attempts to conceal the origin of illicit funds; these offenses were codified in 18 U.S.C. 1956 and 1957. Any investigator who wants to define organized crime must have a clear understanding of the activities described in both the CCE statute and the Money Laundering Control Act. These tools are discussed in the law enforcement strategies section for each of the criminal groups in Chapters 4 through 11.

## International Perspective

Authors such as Albanese, Das, and Verma (2003) discuss the consensus of international perspective on the common features of organized crime. These features include the following:

- Planned criminal activity for profit
- A conspiracy of a continuing enterprise formed around social, ethnic, or business relationships, or around a certain product or opportunity
- Use of violence, threats, and intimidation to achieve goals
- The use of corruption to protect its interest and avoid arrest and prosecution

These features help investigators to recognize organized crime, and are a common bond and starting place for international cooperation.

The Treaty of Mutual Assistance in Criminal Matters of 1973 illustrates an international definition of organized crime. This treaty refers to organized crime as “an association of individuals for periods of time for profit by both illegal and legal means.” Although the word *corruption* is not used in the treaty, protection from prosecution is mentioned. The method of operation is described as being methodical and systematic.

Louise Shelley (1995), director of the Transnational Crime and Corruption Center (TraCCC) at the American University’s School of International Service in Washington, D.C., includes three characteristics to define transnational organized crime groups:

- Based in one state
- Commit crimes in several countries when opportunities arise
- Conduct illicit activities with low risk of arrest or detection

In describing organized crime, Shelley refers to the mobility and versatility of these groups and writes that there is no prototypical crime cartel. Although their activities and structures vary, all have engaged in money laundering to conceal their enormous profits. Shelley views the corrupting influence of these organizations over both law enforcement and governments to be a threat to the stability of governments and nations.

## United States Federal Definitions

Many investigations in the United States use the definitions provided in both state and federal RICO statutes (1970). G. Robert Blakey, known as “the father of RICO,” has described “organized crime” as a political term. Organized crime is characteristic of an enterprise with a continuing criminal conspiracy that is motivated by profit from illicit activities demanded by the public. Violence, threats, and corruption ensure its continual existence.

Academics, law enforcement personnel, and state governments often replace the term “organized crime” with *illegal enterprise*. The California Penal Code defines organized crime as “a crime of conspiratorial nature that seeks to supply illegal goods.” It describes organized crime as an activity of planning and coordination of individual efforts of illegal activities for profits, and includes crime committed by criminal street gangs (“Deering’s California Codes Annotated,” 2003). Maryland and Arizona also refer to “organized crime” in their statutes (“Annotated Code of Maryland,” 2003; “Arizona Revised Statutes,” 2003). Delaware provides funding to combat organized crime under its Special Law Enforcement Assistance Fund (“Delaware Code Annotated,” 2003). Maryland lists characteristics that define organized crime as follows:

- Criminal activity for significant income
- Combination or conspiracy
- Violating criminal laws relating to prostitution, drugs, corruption, extortion, counterfeiting, loan sharking, and gambling (“Annotated Code of Maryland,” 2003)

New Mexico statutes describe organized crime as supplying illegal goods and services for a profit by members of a structured and disciplined organization (“New Mexico Statutes Annotated,” 2003).

The New York legislature recognized the difficulty in precisely defining organized crime, but still passed the Organized Crime Control Act, which includes a charge of enterprise corruption. New York also created a statewide organized crime task force to conduct investigations and to prosecute organized activities. Its statute defines organized crime and gives officials the power to issue subpoenas, obtain warrants, and investigate organized crime activity. New York describes organized crime as follows:

An efficient and disciplined organizational structure that is very complex and diversified in its activity. It uses corruption as a means to protect and expand its operations. Organized crime consists of intricate statewide and nationwide conspiracies that have extended life spans. Organized crime must be addressed by a concerted, concentrated investigative, and prosecutorial effort to break the structure and power. (“New York Consolidated Law Service,” 2003).

By creating the task force and addressing organized crime by statute, New York has brought together considerable resources to address this type of criminal activity.

The Texas statutes and codes contain language concerning organized crime in the state’s Penal Code Title 11, Chapter 71. The code requires a person or persons who intend to establish, maintain, or participate in a combination of or gain profits from a combination of a variety of illegal activities such as gambling, promotion of prostitution, sale of a controlled substance, murder, arson, and robbery, among others, to be characterized as organized crime (“Texas Statutes and Codes Annotated,” 2003).

One attempt to measure organized crime in Western Europe reached a consensus that 11 characteristics were common to organized crime. To meet the criteria of being defined as organized crime, the group had to exhibit at least six of the 11 characteristics. Conspiracy, serious criminal acts, and the motivation of profit and/or power were considered to be essential factors for a group to be classified as organized crime. Other characteristics include the following (Van der Heijden, 1996):

- Influence on politics, public administration, the judiciary, and the media (corruption)
- Money laundering activity
- Business-like structure
- Use of violence and intimidation
- International activity
- Specialization
- Continuity
- Employing discipline and control



Dobovšek (1996) concluded that creating a definition of organized crime was impossible, but noted that characteristics that describe organized crime activity were useful. Organized crime, according to this author, may be described as “quick development and changing of the forms” in response to the environment. Dobovšek specified the traits of organized crime as professionalism, organization, unlimited financial means, and enormous corruption potential. Organized crime varies from country to country because of differences in geographic, economic, and social factors of each country. The variety of definitions by each country leads to problems with measuring organized crime activity and obtaining international cooperation.

Donald Cressey (1969), a consultant to the 1967 President’s Commission Task Force on Organized Crime, wrote that the positions of corruptor, corrupted, and enforcer were essential to the activities of organized crime. He used such terms as “division of labor,” “coordinated activities,” and “rules involved in criminal operation” in describing these positions. Other U.S. government committees and commissions have also contributed to defining organized crime and its activities and players.

The Kefauver Committee identified the syndicated nature of organized crime and described an organized hierarchy with centralized direction and use of violence and corruption to achieve organized goals of profit. The Committee described the Mafia as a secret conspiracy that was ruthless and very successful. The President’s Task Force on Crime of 1967 and 1976 and the 1986 President’s Commission on Organized Crime expanded the definition and knowledge of organized crime as well.

## A Synthesis of Definitions

Definitions incorporate a range from five to more than 10 characteristics. Kenny and Finckenauer (1995) list 12 characteristics that represent a synthesis of the features identified in studies of Hagan (1983) and Maltz (1976, 1985). Albanese (1996) lists 11 characteristics similar to those of Kenny and Finckenauer. Howard Abadinsky (1985) proposed two different models of organized crime: the bureaucratic/corporate model and the patrimonial/patron–client model. There are six to eight attributes of organized crime according to Abadinsky’s work.

The characteristics of organized crime described in these scholarly works also can be found in the reports of U.S. government and European task forces, committees, commissions, and a variety of organizations. These attributes include the following:

- Has non-ideological motives
- Exhibits continuity over long periods of time; is perpetual in nature
- Uses tactical and strategic or long-term planning to reach the goals of organized crime
- Governed by rules and codes of secrecy
- Seeks to monopolize products and services

- Has an organized hierarchy
- Uses force and intimidation
- Restricts membership
- Provides illegal goods and services as demanded by the public
- Obtains enormous profits by criminal means
- Employs corruption for immunity and control
- Creates a division of labor with job specialization
- Engages in money laundering
- Invests profits in legal enterprises and seeks to control these businesses
- Exhibits an ability to adapt to changes in supply and demand, law enforcement, and competition
- Operates internationally
- Engages in more than one illicit activity (diversity in business)
- Uses legal businesses as fronts for illegal activity

### Other Approaches to Defining Organized Crime

When examining the numerous definitions of organized crime, it becomes apparent that some countries divide organized crime groups into traditional organized crime (e.g., Italian Mafia, American La Cosa Nostra, Yakuza), drug-specific organized crime (e.g., South American cartels), and entrepreneurial organized crime (e.g., Russian, Ukrainian, West African, and other groups). Other types of classifications include the terms “transnational,” “international,” and “amalgamation.” *Amalgamation* is based on factors such as geography or territory, ethnicity, product, or service as a commodity or a sociopolitical cause.

Another approach to the classification of major criminal groups is to view them as *organizing* crime rather than *organized* crime. This concept, which was developed by Brodeur (1996), views these organizations as continuously changing or fluid rather than as a single bureaucratic enterprise. Such groups are constantly evolving around a variety of activities and alliances. These alliances are dependent on a symbiotic relationship with society and—if unchecked—form a global threat.

Organized crime has become both transnational and international because of its ability to be opportunistic with products and services as well as alliances with other criminal and noncriminal groups. Prohibition of drugs has made organized crime the most powerful criminal groups in history. Santino (1988) defines the Mafia as “a financial Mafia employing the tactic of investing in legitimate markets and institutions to gain enormous wealth and power.” International rules ensure secrecy and tax havens, which allow money to be circulated through trust companies, stocks, and other financial innovations.

The President's Commission on Organized Crime reached the same conclusion as Santino's conception of organized crime. It reported that drug trafficking was the major source of income for such groups and required complex money laundering operations. The Commission concluded that organized crime consists of three essential components:

- Criminal groups that are structured using corruption, violence, and intimidation to gain wealth and power
- Corrupt public officials and businesspeople who act as protectors ensuring continuity and insulating the group from civil and criminal action by the government
- Social support including use of illegal services and products and specialists who facilitate organized crime activity

Unlike its predecessors, this Commission identified a number of organized entities in addition to La Cosa Nostra, including the Colombian cartels, Yakuza, Russian Mafia, and outlaw motorcycle gangs, among others. The Commission viewed these entities as emerging groups that met the definition of organized crime. History has proven both Santino's and the Commission's concepts to be correct. Organized crime evolves and continues to form alliances and new groups to expand their control over the market of a product or service.

## Conclusions

Clearly, there is much debate about what organized crime means. Many different types of organized crime are possible, just as organized crime groups are not limited to La Cosa Nostra. Investigators of these and other criminal groups must understand and be capable of presenting the elements that are used by both the prosecutor of the case and the agency or department that can supply the needed resources for a successful investigation. In defining organized crime primarily as a criminal conspiracy, the investigator has only to include the legal requirements of a criminal conspiracy in the definition. This practice allows for La Cosa Nostra, Yakuza, the Russian Mafia, militant groups, Triads, and other specified groups to be legally declared a criminal organization. Membership in one of these groups would mean that the person is guilty of a criminal conspiracy simply by belonging to the group. La Cosa Nostra has been classified as a racketeering enterprise; thus all of its members are guilty of RICO violations. Declaring a group to be a criminal enterprise establishes a *prima facie* case for the existence of a conspiracy. It allows all members to be prosecuted for the crimes of all involved in the conspiracy, and it allows the prosecutor to employ rules of evidence and testimony such as hearsay in the trial. This is a very innovative strategy to prosecute every member of an entire organization.

As discussed in this chapter, the criteria needed to classify an organization or group as organized crime vary not only between jurisdictions, but also between agencies, states, and countries. Some countries have yet to define organized crime. Definitions are crucial because they provide information needed for effective laws, investigations, and prosecutions.

In addition, these definitions enhance efforts to prevent the formation of new organized crime groups and the unholy alliances formed between numerous organized crime groups worldwide. The creation of measures used against organized crime must begin with an understanding of what organized crime is and how it functions.

Sun Tzu, the 5th-century Chinese general and author of *The Art of War*, had this to say about an enemy and victory:

If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.

In our case, the enemy is organized crime. You as a potentially successful investigator must first define the problem before attempting to address a phenomenon as complex and constantly evolving as organized crime.

## Discussion Questions

1. How would you define organized crime? What distinguishes it from disorganized crime?
2. Why is defining organized crime important to law enforcement? Prosecutors?
3. Discuss United States Commissions' findings with regard to organized crime.
4. Of the 18 characteristics discussed in this chapter, which do you consider the most important? Why?
5. How do the United States' definitions of organized crime and those of other countries differ, and how are they alike?
6. List and discuss state and federal legislation that address definitions of organized crime (e.g., conspiracy laws, RICO, money laundering).

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