S E R V I N G C A N A D I A N S

RESEARCH AND STATISTICS DIVISION

ASSESSING THE EFFECTIVENESS OF ORGANIZED CRIME CONTROL STRATEGIES: A REVIEW OF THE LITERATURE

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Assessing the Effectiveness of Organized Crime Control Strategies: A Review of the Literature

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1.0 Introduction

Over the past three decades, organized crime (OC) has been the subject of numerous legislative initiatives and scholarly studies around the globe. In Canada, legislation in this area has intensified in recent years in an effort to provide law enforcement with the tools to investigate criminal organizations and to otherwise aid in the fight against OC. Specifically, since 1997, the Canadian Parliament has passed legislation providing for such things as enhanced police powers, the creation of an agency to combat money laundering (Bill C-22), and the creation of a new criminal organization offence (Bill C-95).

In 2001, Bill C-24 was introduced. This Act creates new offences (e.g., commission of an offence for a criminal organization) and broadens the powers of law enforcement to seize property used in crime and, ultimately, to initiate proceedings leading to the forfeiture of the assets of criminal organizations.

At several meetings over the last five years, Federal/Provincial/Territorial Ministers responsible for Justice have reaffirmed the importance of combating OC. They have stressed the need to:

- develop OC prevention strategies;
- keep legislation and regulations up to date;
- co-ordinate national and regional initiatives;
- undertake research and analysis; and,
- engage in public education.

The Ministers also identified a series of national policy priorities, such as drug trafficking, economic crimes, high-tech crimes, money laundering, illegal immigration and trafficking of humans, and corruption.

The overall aim of this report is to support legislative reform and policy development in relation to OC. More specifically, the report will provide new information to the Department of Justice, further inform ongoing research activities, and help support the planned mid-term and summative evaluations of the Measures to Combat Organized Crime initiative. The planned evaluations by the Department are part of a larger coordinated interdepartmental review of the initiative, which includes the Department of the Solicitor General Canada, Royal Canadian Mounted Police, and Correctional Services Canada. The results of this project may also be used to inform the public about the issue.

Specifically, the overriding purpose of this project is to review studies that have assessed the effectiveness of OC control strategies. These strategies may be legislative, police, or community-based. The review has sought to be inclusive, covering analyses using a broad range of research methods and data sources. The review includes studies by academics, criminal justice system personnel, government, and law enforcement agencies. While the focus of this review is on studies conducted in Canada, the United States, and other western countries, salient material from other jurisdictions has been included.

The specific issues examined in the review of materials on OC included:

- definitions of OC used in the literature;
- the types of OC control strategies and the measures/indicators used to assess their effectiveness;
- the effectiveness of these strategies;
- methodological challenges faced by those conducting evaluations/assessments; and,
- gaps in the literature and recommendations with regard to future research.

2.0 Methodology

Literature reviews tend to contain, at most, very brief sections describing the manner in which documents have been located and specifying the criteria serving as the basis for their inclusion. However, the process of identifying and selecting materials for this review was challenging due to the breadth and complexity of OC, as well as the dearth of evaluative studies that fit the conventional mould.

The terrain of OC is so broad—covering such a wide range of illicit activities—that the pool of materials through which one must sort is daunting. As an illustration, an initial search of several electronic databases yielded more than 800 documents covering the relatively short period from 1990-2003. One must therefore engage in a major selection process to reduce the volume of documents to a manageable number.

Apart from the sheer volume of materials, there are differences of opinion regarding the definition of organized crime and, hence, the scope of activities subsumed within the concept. Also, the document selection process is rendered difficult by the fact that very few studies have rigorously evaluated OC control strategies through conventional research designs. For example, if one was to review treatment programs for men who batter their spouses, there is a finite pool of several dozen experimental and quasi-experimental studies evaluating the effectiveness of these programs.

In the context of OC, such designs would involve the careful monitoring of a control strategy (e.g., a law enforcement initiative), either from the outset or after the fact, to determine whether statistically significant reductions in specified illicit activities or other changes have occurred following their implementation or in relation to comparable jurisdictions in which such initiatives have not been adopted. ***The use of such designs is virtually non-existent in assessments of the impact of OC control strategies***. In fact, Maltz (1990:15) argues that the classic experimental designs cannot be used in evaluating the success of OC control efforts, "as this would be tantamount to advertising that the "control" jurisdictions are (and will remain) free of federal enforcement efforts."

That highly rigorous assessments are few in number is a conclusion drawn not only by this author but in some of the most authoritative texts on OC. For example, Reuter (1994:91) asserts that the OC literature as a whole has failed to attract much scholarly attention: "It would be difficult to identify as many as half a dozen books that report major research findings, or even that many significant articles."

Martens (1983; cited in Beare, 1996:35) adds that, "The field of organized crime research, to say it modestly, suffers from 'intellectual atrophy.' Little is written that deserves our attention and that which is written often does not reflect reality…Particularly when it comes to addressing public policy issues with respect to organized crime control, the field could use a healthy dose of 'real world' experiences."

The problem may be even more acute with regard to evaluations of OC control strategies. On the strategy of prosecuting and incarcerating the heads of criminal organizations, for example, the US President's Commission on Organized Crime (1986:205) notes that no rigorous assessments or evaluations of the "headhunting" strategy are available for inspection.

On the impact of the regulation of large-scale, illegal gambling by law enforcement agencies, Reuter (1984:45) writes, "Unfortunately, it is not possible to test these hypotheses…Analysis of differences between cities in which strike forces were present and those in which they were not has never been carried out."

On anti-money laundering measures, Levi (2002: 188) states, "Given the political and social importance of this area, the absence of evaluation research on it and organized crime in general is remarkable." Later in the same article, Levi adds that, "Demonstrable impact on crime and even on crime detection remains harder to identify, however. Methodological problems in linking causes to effects mean that there are few defensible positive findings about the direct, short-term impact of money-laundering reporting on prosecutions and on confiscation" (p.190).

Also on money laundering, Walther (1994:9) suggests that research in this area is still at a nascent stage:

> Forfeiture and money laundering laws undoubtedly provide for harsh sanctions in the individual case, but do they deter? It appears that a lot of empirical and theoretical research work is awaiting criminologists and jurists in this area. The question of deterrence undoubtedly raises a set of rather complex issues. At the outset, however, it would be interesting to know about the ratio between the amount of profits that are in criminal enterprises, and the proportions that so far have been successfully taken out of it. Similarly, we may wish to look at data about the ratio between the number of investigative measures, the number of arrests that have been effectuated under the new and broadly defined criminal statutes [in the United States], and the number of subsequent prosecutions and convictions.

Fyfe and McKay (2000:280) assert that witness protection programmes, too, have been the subject of little evaluative research: "Despite nearly thirty years of formal witness protection programmes operating in the US, research in this area is in its infancy."

Lyman and Potter (1997:434), in a leading textbook on OC, add their voice to the lack of routine data collection in this area, asserting that "The [US] government keeps no comprehensive statistics on how many organized criminals have been arrested, convicted, and incarcerated."

The lack of routine data collection and rigorous evaluations in this area necessitate some compromises with regard to the rigor one could reasonably expect from works to be included in the present analysis. Some subjectivity was unavoidable in this exercise. Before discussing the criteria for inclusion, let us turn to the parameters of the search strategy.

2.1 The Search Strategy

Time Frame – A preliminary scan of materials indicated that most assessments of OC control strategies have tended to appear since 1980. The focus of our search was from that year onward, although seminal works appearing prior to 1980 were included in this review.

Language – While a fair amount of material on OC has been published in languages other than English and French, this review is confined to works published in Canada's two official languages.

Scope of the Search – The search was conducted with the help of several electronic databases. The databases searched included Sociofile (1980-2003), Current Contents (1993-2003), and Quicklaw (1990-2003). Current Contents affords coverage just from 1993 onward and the search with Quicklaw yielded so little from 1990 to the present that the search was not expanded to the 1980s. As OC was the critical unit of analysis in this review, the key words used in the electronic searches were: "Organiz(s)ed Crime", "Criminal Organization", "Transnational Crime", and "Criminal Network(s)".

Bibliographies provided by various Web sites and in major textbooks on OC also proved to be rich sources of information. Furthermore, the bibliographies contained in the documents uncovered by the electronic searches were scanned for additional material.

2.2 Document Selection Criteria

Materials examined in this review included books, articles published in academic journals, government or law enforcement publications, reports produced by research institutes, and newspaper articles. While hundreds of works explicitly or implicitly relate to OC, the following requirements needed to be met before a document was included in the analysis:

1. The document had to provide some assessment or evaluation of a strategy, approach, or program designed to control OC or it had to deal with methodological issues in these assessments. While advanced research designs were not required (see above), simple assertions purely of an anecdotal nature were not sufficient to include a document. Some empirical evidence was required to support the author's contention regarding the impact of a control strategy. Also included in the analysis were documents dealing with definitional and methodological issues bearing on evaluations in this area.

2. Organized crime had to be an important theme in the work. Many publications deal with activities in which criminal organizations may be involved—e.g., racketeering, drug trafficking, money laundering, and prostitution. In many instances, however, the focus is on the activity and there is little connection made with OC. If all these works were included, every initiative dealing with every independent operator would be included. In the case of drug trafficking, for example, every measure to curb demand, including psychotherapy provided to individuals, would be included because such interventions may ultimately reduce OC's client base. As OC was the unit of analysis in this review, more direct and explicit connections had to be made between the control measure and the

impact on criminal organizations. While the decision to include or exclude works was often clear, there was no escaping some subjectivity in the selection of documents.

2.3 Format of the Analysis

Due to the dearth of more rigorous evaluations of the experimental type, the analysis did not lend itself to the tallying of research findings or the amalgamation of research findings in the form of a meta-analysis. The review therefore assumed a more conventional format, whereby the evidence derived from assessments of each OC control strategy was presented and weighed. At the end, the aim was to ascertain the merits of different control strategies, while maximizing impartiality and carefully assessing the credibility of the evidence presented.

3.0 Definitional Issues, Measurement and Other Concerns in Organized Crime Research

Any review of assessments of OC control strategies is limited by the degree of rigor and overall quality of scholarly works on the topic. The previous section has emphasized the dearth of rigorous evaluations of efforts to combat OC. There is little standardization with regard to the research methods used and much of the literature is anecdotal or descriptive. Thus, assertions are often made in the absence of any empirical evidence or they are based on rather crude, descriptive data.

Three key factors compromise the quality and sophistication of the literature on OC:

Definitional Issues – There is little consensus as to a definition of OC. However one conceptualizes OC, it is ultimately the key dependent (outcome) variable in studies aiming to determine the impact of OC control efforts. That is, in order to assert that an initiative has been beneficial, one must presumably demonstrate that it has engendered some reduction in OC. A failure to agree on what OC is compromises its measurement and any claims as to the beneficial effects of various policies and practices.

Data-Related Issues – The dearth of standardized data on organized crime has compelled scholars to rely on a multitude of sources, some of which have been of questionable credibility. Some sources of information are likely to be self-serving and sensationalistic, while others are heavily biased in favour of a certain view of OC.

Crude and Varied Performance Measures – The definitional issues and the limited data available on OC groups and activities have served as major impediments to the measurement of the impact of initiatives designed to control OC. Performance measures used are highly diversified and are often very basic, calling into question the credibility of much of the evidence advanced on the success of OC control efforts.

The remainder of this chapter elaborates on these issues.

3.1 Definitional Issues

There are numerous references to the lack of consensus on any existing definition of OC. There are varied definitions offered by scholars, as well as great variation in legal definitions provided under different statutes. In its evaluation of the Federal Strike Forces established to fight OC, the United States' General Accounting Office (1977:i) observed that "there is no agreement on what organized crime is and, consequently, on precisely whom or what the Government is fighting." Later in that same report, the GAO added: "Before a problem can be dealt with, it must be adequately defined. Participating Federal agencies cannot completely agree on what the term 'organized crime' encompasses" (p.8). Furthermore, the report cited a 1974 survey of Federal Attorneys in the US, commissioned by the US Attorneys' Advisory Committee, which revealed that over half thought that OC was not defined sufficiently to delineate prosecutorial responsibility.

An analysis of definitions used by 15 scholars over a period of more than 15 years has revealed that, collectively, they have identified 11 different attributes of OC (Albanese, 1996). The table below lists these attributes and the number of authors identifying them.

TABLE 1
DEFINITIONS OF ORGANIZED CRIME IN THE SCHOLARLY LITERATURE

Characteristics	Number of Authors
Organized Hierarchy Continuing	15
Rational Profit through Crime	12
Use of Force or Threat	11
Corruption to Maintain Immunity	11
Public Demand for Services	6
Monopoly over Particular Market	5
Restricted Membership	3
Non-Ideological	3
Specialization	3
Code of Secrecy	3
Extensive Planning	2

Source: J. Albanese, Organized Crime in America (3rd edition). Cincinnati: Anderson, 1996.

This analysis indicates that there is some consensus that OC operates as a continuing enterprise, works rationally to make a profit, uses threats or force, and corrupts public officials to achieve immunity from prosecution. There is less consensus about such things as exclusive membership, OC's non-political nature, its specialization in certain activities, the existence of codes of secrecy, and the degree of planning in carrying out activities.

Abadinsky (2003) adds another element to those identified above. OC groups are often seen as being governed by a set of rules covering the conduct expected of their members. Violators of such rules can expect to be disciplined if it is perceived to be in the interest of the organization (Maltz, 1994:31 in Kelly et al.).

Maltz (1994) further asserts that involvement in legitimate businesses is a frequent, although not necessary, characteristic of OC groups. Legitimate businesses may serve as cover for illicit activities, facilitate money laundering, provide respectability to group members, or serve as payment for gambling or loan shark debts.

Schelling (1971) also expanded the definition of OC by pointing out that, aside from the direct provision of illegal goods and services, OC acted as a "government" by extorting those criminals who were supplying these services. Those engaged in drug dealing, prostitution, and bookmaking pay tribute to the gangsters protecting their territory. A criminal organization can also mediate disputes between neighbouring bookmakers, loan sharks, or narcotics dealers.

Beare (1996:14) asserts that OC's essential characteristic is that of a process or method of committing crimes, rather than a distinct type of crime or criminal. Indeed, a constant theme in the literature is the duality of definitions, the debate as to whether OC is characterized primarily by its enterprise quality or by certain types of activities that are thought to require some degree of organization--e.g., protection rackets, loan sharking, and illicit gambling (Stelfox, 1998). The Canadian Criminal Code (Part XII.2), for example, identifies about three dozen offences as enterprise crimes.

The diverse definitions of OC provided by US states illustrates the prevailing definitional chaos (Reuter, 1994:93). On one extreme is the very broad statutory definition of the state of Mississippi: "Two or more persons conspiring together to commit crimes for profit on a continuing basis." Such a definition would include two robbers or burglars, or even members of a youth gang, who planned and executed crimes together for a period of time.

Many states have adopted definitions that have emphasized the elements of fear, discipline, and corruption (Reuter, 1994). The state of Kansas, for example, refers to "a continuing criminal conspiracy organized for power and profit utilizing fear and corruption to obtain immunity from the law." Similar to the Canadian Criminal Code, other US states spell out the activities of OC. Pennsylvania, for example, indicates that, "'Organized crime' and 'racketeering' shall include, but not be limited to, conspiracy to commit murder, bribery or extortion, narcotics or dangerous drug violations, prostitution, usury, subordination or perjury and lottery, bookmaking or other forms of organized gambling" (Reuter, 1994:93).

Blakey, Goldstock, and Rogovin (1978) assert that the manner in which definitions are arrived at by those with enforcement responsibilities are reversed from what one would intuitively expect. Logically, we would expect to first define OC and then develop legal and investigative tools to deal with it. Rather, these authors assert that definitions are often based on issues that have been identified as particularly worthy of investigation:

> Most often, the content of the definition [of OC] reflects the perspective of the discipline or profession of the author, and different perspectives have led to different definitions. Definitions, too, reflect purpose. To meet varying needs, organized crime may, of course, be quite legitimately defined by members of the same profession in quite different fashions; for example, to limit or expand investigative jurisdiction, create special crimes, or to assess extra punishment for those who engage in certain kinds of criminal behavior. (p.3)

Blakey and his associates (1978:3) further assert that the law enforcement community is inconsistent in defining OC and often fails to focus on the manner in which offences are committed:

> In the absence of a generally accepted definition of organized crime for administrative purposes, however, police and prosecutors have tended to focus their attention upon conduct that can be clearly labeled criminal: conspiracy, extortion, bribery, etc. Nevertheless, these categories of the substantive penal law do little to distinguish persons involved in individual acts from those individuals involved in larger criminal networks…The failure to give due attention to specialized knowledge about the manner in which crimes are committed and its relation to substantive crime definitions gives an accordion-like quality to operating definitions of organized crime and organized criminals. Definitional flexibility may be desirable for some purposes, but it clearly does not give rise to a great deal of consistency between units charged with organized crime control.

The definitional morass is further underscored by the failure of respected task forces, such as that of the US National Advisory Committee on Criminal Justice Standards and Goals, to formulate a clear definition. The Task Force proclaimed that: "No single definition is believed inclusive enough to meet the needs of the many different individuals and groups throughout the country that may use it as a means to develop an organized crime control effort "(cited in Bynum, 1987:4).

Until some consensus exists as to the definition of OC, attempts to draw generalizations regarding the success of efforts to combat it will be seriously limited. Another major limiting factor is the absence of agreement in terms of the most preferred measures to use in the assessment of OC control strategies.

3.2 Data-Related Issues

Unlike more conventional crimes, data are not routinely collected on OC groups or activities. Thus, there is no standardized database, established by a credible agency, that scholars can rely on in order to conduct their analyses. Governments do not maintain statistics on how many "organized criminals" have been arrested, convicted, and incarcerated (Lyman and Potter, 1997). In Canada, while there is support among the Federal/Provincial/Territorial Ministers Responsible for Justice for an ongoing reporting mechanism, the Canadian Centre for Justice Statistics collects a minimum of data in this area. Specifically, the Adult Criminal Court Survey provides some data on the disposition of cases involving criminal organization offences.

The dearth of standardized data creates substantial uncertainty with regard to the gravity of the problem. Albanese (1996:11) notes:

> The true extent of organized crime is unknown. Characteristic organized crimes, such as conspiracy, racketeering, and extortion are not counted in any systematic way. Other offences are known only when they result in arrests by police. The problems in relying on police arrests as a measure of criminal activity are apparent: much crime is undetected, some that is detected is not reported to police, and arrest rates go up or down depending on police activity and not necessarily criminal activity.

Reuter (1994:91) writes of the difficulty of gaining access to data on OC due to the sensitivity of official records and privacy laws. For example, legal barriers exist to the use of grand jury testimony and information obtained through electronic surveillance (Maltz, 1990:17). Reuter adds that field research faces serious obstacles in this area, including the investigator's lack of access to information on the most repugnant activities of criminal organizations. He also asserts that an extensive non-scholarly literature does contribute significantly to our understanding of OC. These works involve accounts of the experiences of investigators or prosecutors and biographies written by OC figures, often with the assistance of a journalist. Clearly, such literature must be treated with prudence, due to its tendency to be self-serving and sensationalistic.

Beare (1996:26) notes that insiders' accounts of criminal organizations can yield a great deal of useful information about the structure of these organizations, the nature and changes in their operations, the motivations of members, and the extent to which legislation may have encouraged insiders to tell their stories. Nevertheless, the veracity of these accounts must be carefully assessed. Ianni (1972), for example, was said to be co-opted or deceived in his study of the Lupollo crime family. Critics argue that the family concealed from Ianni some of its most serious activities, such as heroin distribution and violence (Beare,1996:25). The value of information provided by insiders is also dependent upon their location within the organization, as just a few members understand how the entire operation works (Reuter, 1983).

Reuter also asserts that existing materials are limited by their nearly exclusive focus on the Italian Mafia and on the settings of Chicago and New York. Other groups need to be considered in discussions of OC. Reuter contends that even in the case of the Mafia, we still await a solid understanding, as scholars have for long been embroiled in a sterile debate as to its existence, rather than its strength, durability, and uniqueness. Furthermore, much of what we know about the Mafia is based on the word of Joseph Valachi, OC's most notorious informer (Block, 1994:3).

The reliability of information on OC provided by law enforcement agencies has been the subject of considerable academic debate. These agencies have faced the criticism that they have developed a fixed conception of OC (Beare, 1996:29). This conception is that of an "alien conspiracy", with OC viewed as being predatory and as corrupting society, while discounting the role of citizens who seek illicit goods and services, as well as officials who may collude with criminal groups. Critics contend that police intelligence work and the interpretation of data generated is shaped by this conception.

In the 1960s and 1970s, for example, US law enforcement agencies believed in the existence of a national Mafia criminal conspiracy. This belief was said to produce a self-fulfilling prophecy, whereby the focus of police turned to Italian-American crime families. The predictable result was that most criminal cases were Mafia-related (Beare, 1996:30). The view of OC as somehow alien to society, rather than as a byproduct of the weaknesses and vices of its members, is also said to serve the interests of police agencies by promoting their pursuit of additional resources.

Another concern is that the lack of sufficient data on OC has compelled scholars to rely excessively on government documents, many of which have also historically adopted a conspiratorial view of OC (Galliher and Cain, 1974). One scholar, for example, argues that the work of royal commissions and inquiries into OC is often superficial and driven by a political agenda: the need to relieve "a politically defined, media-generated crisis" (Beare, 1996:33). Overall, it has been argued that the over reliance on official sources of information has impeded the development of independent scholarship in this area. For their part, law enforcement agencies have been reluctant to release information that might compromise their operations or the safety of their officers (Auditor General of Canada, 2002).

The media can be fruitful sources of information on OC, due to their international scope, focus on current issues, and the investigative skill of many journalists (Beare, 1996:34). Journalists have figured prominently in the limited Canadian literature in this area. Prudence must be

exercised here again, however, due to the tendency of these accounts to be sensationalistic and speculative. Furthermore, journalistic works tend to focus more on OC figures and their activities, than on the effectiveness of control strategies.

3.3 Crude and Varied Performance Measures

A variety of measures have been proposed in assessing the impact of OC control strategies (Peterson, 1994:381; Maltz, 1990). A study may, of course, adopt several measures. Some of the key measures used or proposed have been:

- Body-count measures (e.g., the number and nature of cases opened, arrests, prosecutions, convictions, and prison terms imposed);
- Size of the illicit market (e.g., changes in the volume of drugs trafficked/sold, number of usurious loans);
- Volume and scope of organized crime groups (e.g., the impact of control efforts on criminal organizations or their leadership);
- Efficiency of criminal justice units (e.g., strike forces);
- Harms produced by OC (e.g., the impact of control efforts on the physical, economic, and other harms occasioned by OC);
- Seized and forfeited assets and recovery of unpaid taxes.

Body-Count Measures

Among the most common measures of the impact of OC control strategies are tallies of arrests and convictions achieved. The Canadian Association of Chiefs of Police (1993) for example, provide a breakdown, by province, of the number of charges and arrests for various activities in which criminal organizations are thought to be involved. However, such reports provide no indication as to the proportion of acts of prostitution, illicit gambling, drug trafficking, and related activity that are linked to OC. Also, police data of this kind tend to seriously underestimate the volume of such activities, as there is a massive "dark figure" in relation to consensual crimes, extortion, and many other activities associated with OC.

Furthermore, simple body-counts of this type provide no indication of the justice system inputs required to generate them (i.e., no cost-benefit analysis) and no information on the impact of the law enforcement activity on the relevant criminal organizations. Maltz (1990:39) argues that counting convictions and computing average sentence lengths is tantamount to determining the battles won with no indication of how the war is going. Since all convictions are given the same weight, such data provide no information on the significance of the battles won. A strike force can conceivably run up an impressive tally of convictions by pursuing the easiest cases. In some contexts, this may even assist more powerful criminal organizations, as more vulnerable competitors are put out of circulation.

Moreover, what is one to make of a reduction in the number of charges following the introduction of a new enforcement initiative? Is such a reduction an indication of failure or an indication of the deterrent effect of the new measures (Marx, 1988:109)? Many police reports trumpeting a large arrest tally, or the conviction of some high profile offenders, imply that more

charges, arrests, or convictions are indications of success. However, such increases may reflect an increase in criminal activity or simply that the relevant agency has benefited from additional resources.

Conviction and sentence-based measures are also problematic because they discount the ancillary benefits of prosecution where a conviction or lengthy sentence is not achieved. Prosecution in itself can have a general deterrent effect, put an end to the illicit behaviour under consideration, bring the public's attention to those who may victimize them, and free sectors of the economy from infiltration by OC groups (Maltz, 1990: 9).

Measures such as the conviction rate may also be counterproductive in terms of the operations of OC strike forces. Maltz (1990:9) argues that these agencies should undertake risky cases and concern for a high conviction rate would lead them to pursue less risky alternatives. Also, prosecutors could inflate their conviction rates by accepting a guilty plea on a lesser charge.

In themselves, therefore, such body-counts provide just a starting point, but little in the way of a useful indication of an initiative's efficacy or efficiency. It is important to note that the Homicide Survey, maintained by the Policing Services Programme at the Canadian Centre for Justice Statistics, collects data on "gang-related" homicides.

Size of the Illicit Market

Attempts have been made in Canada (Porteous, 1998) and elsewhere to ascertain the volume of OC. Beare and Schneider (1990:2) assert that, "There is no verifiable method for determining the size of the illicit economy. Estimated figures in this area of illicit proceeds, however carefully calculated, are only guesses. Once stated they take on a reality they do not deserve."

There are many unknowns in estimating the size of the illicit market in relation to any product or service. With regard to prohibited drugs, the size of the market is a function of the quantities purchased and the cost, neither of which has been accurately measured (Kleiman, 1994). Drug seizures are an inadequate indicator of quantity, as only a small percentage is seized. A 10 percent seizure rate is considered highly speculative and variable across drugs and time (van Duyne, 1996:128).). Furthermore, the estimates of profit margins that form the basis for the calculation of proceeds from the drug trade are also controversial (van Duyne, 1996:129). Drug prices, sources, and amounts bought are difficult to ascertain as they are usually not probed in existing drug use surveys (Kleiman, 1994).

Much of the United States' data on drug trafficking is collected by the National Narcotics Intelligence Consumer Committee. The Committee concedes that there is a high degree of uncertainty in the estimates of the amounts of drugs produced and entering the US, trafficking patterns, and prices and purity of drugs (President's Commission on Organized Crime, 1986:342-343). The President's Commission has added that there is no centralized data collected system on drug seizures, resulting in the frequent double and triple reporting of the same drug bust by participating agencies.

In discussing the diversion of controlled chemicals for the purpose of manufacturing illicit substances, the United States' General Accounting Office (1993) noted that the international community has no centralized data exchange for monitoring controlled chemicals

Aside from official sources, information on the size of the illicit market can be obtained from perpetrators themselves. Reuter and Haaga (1989), for example, acquired detailed information about the drug market from incarcerated high-level drug dealers. Studies of incarcerated persons are always exposed to the criticism that those contacted do not constitute a representative sample, as the most intelligent and sophisticated offenders are less likely to be caught and convicted. The issue of whether those interviewed for this study did represent all high-level drug dealers was also underscored by the fact that just 40 percent of those contacted consented to giving interviews.

Another concern with the use of a particular form of criminal activity, such as the amount of illicit drugs sold/smuggled, as a performance measure is that criminal organizations may compensate by a crackdown on one activity by increasing their involvement in another (Maltz, 1990:14). It would serve as little consolation to society if OC groups shifted their activities from gambling to drug dealing. An intensification of law enforcement efforts in one area is also likely to generate more seizures of contraband, underscoring the need to develop measures that are not influenced by enforcement activity.

Maltz (1990:15) adds:

> We may not be able to estimate the magnitude of an activity, but must be content with knowing whether it is increasing or decreasing, or what its targets are, such as which businesses are being infiltrated. Furthermore, we may have to resort to sources of information that cannot be cross-checked—for example, the comment of the target of an investigation in a tapped telephone investigation that he has had to alter his activities due to enforcement efforts would be a definite indicator of impact, but could not be disclosed in an evaluation report.

Volume and Scope of Organized Crime

The United States' General Accounting Office (1977:17) has reported that "complete and reliable data is not available on the number of organized crime figures in particular areas, their position within the organization, and the extent of their criminal activity."

Measures that attempt to ascertain the number of criminal enterprises may be limited in their validity. Van Duyne (1996:207) argues that OC may not be quantifiable in the sense that the number of illicit enterprises is not static:

> Organized crime is not a quantifiable phenomenon. In the first place any operational definition for counting the number of crime-enterprises is bound to be invalidated by the fluidity of reality. During my research it sometimes happened that I thought to analyse one enterprise which split into two or more while doing my research. The reverse also happened: different crime-enterprises cooperated so closely that the

> police thought they were investigating one organization. Counting organized crime is like counting sandbanks in the North Sea…there is a constant shift in composition, shape, and size.

Apart from the difficulty involved in documenting their number, van Duyne notes that the determination of the threat to society posed by these enterprises is quite subjective and a questionable measure, as most of the entrepreneurs running them have no intention of challenging the existing social order. In any event, any measure of this type would need to consider the quality of the threat and extent of harm posed by each criminal organization, rather than a simple tally of these enterprises. Furthermore, quantifying the number and activities of criminal enterprises would still fail to take into consideration those activities of OC groups that are undertaken through legitimate businesses. Moreover, as Maltz (1990:25) notes, it is difficult to ascertain the extent to which activities usually associated with OC, such as gambling or prostitution, are run by criminal syndicates as opposed to individual entrepreneurs.

A related measure of program success is its impact on OC groups. In other words, has a given control effort disrupted a criminal organization? Measuring disruption entails detailed and accurate knowledge of an organization. Even where disruption can be documented, one must attend to the possibility that other groups have emerged to fill the void left by the weakened organization.

Efficiency of Criminal Justice Units

Blakey, Goldstock, and Rogovin (1978:55) take the view that fairly modest goals should be set in evaluating efforts to control OC. They acknowledge that attributing changes in crime patterns to modifications in the functioning of the justice system may be overly ambitious, as too many other factors may play an important role in those changes. They therefore propose that the efficiency of criminal justice agencies/units, rather than their impact, should be the focus of evaluative efforts. One can determine, for example, the relation between the inputs (resources) and outputs (arrests, convictions) of the unit. Modest goals can be established for parts of the system and efforts can be undertaken to ascertain how well the unit is working to achieve these goals. Examples include the ability of a unit to gather evidence, the amount of information developed on OC, the number of requests for assistance by local prosecutors, and the number of cases handled by specialized units that other law enforcement agencies could not handle (Maltz, 1990:7-8). Blakey and his colleagues also recommend that OC control units should undergo continuous internal review, as well as periodic external evaluation.

The need for external evaluations based on clear agency objectives has also been emphasized by Beare (1996:185). She cites the conclusion of reports by the United States' General Accounting Office and various task forces that most evaluations of OC control efforts have been self-evaluations by agencies. These evaluations have tended to focus on administrative data rather than on the impact of agency activities. Furthermore, she adds that even where agencies set clear objectives, they seldom create oversight committees that can steer agency activities toward the objectives.

While the measures of efficiency recommended by Blakey and his colleagues set more modest (and perhaps more realistic) objectives for evaluations, they are plagued by all the above-mentioned shortcomings of administrative body-counts. One would think that the ultimate objective is impact, rather than mere efficiency, however difficult the measure of impact may be.

Harms Produced by Organized Crime

Maltz (1990) calls for harm-based measures of OC. Thus, assessments of OC control efforts should be based on the extent to which physical, economic, psychological, community, and societal harms, engendered by OC, have been mitigated. According to Maltz, evaluations might measure the volume of harm occurring in a jurisdiction on an annual basis. Before a reduction in the overall harm is attributed to a specific agency's control efforts, the difficult task of determining the contribution of other factors must be undertaken. Other factors that may play a role in harm reduction include: the efforts of other agencies; natural changes in supply or demand (e.g., changing drug preferences, cocaine crop failure); non-enforcement phenomena (e.g., the death of a key OC figure); measurement error (e.g., less information available on a given activity than in the previous year); unknown sources; and random fluctuations (Maltz, 1990:20).

Measuring the harms produced by OC is more complex than in the case of conventional crimes such as robbery. Victims frequently report such conventional crimes to the police or mention them in victimization surveys. By contrast, the recipients of the illicit goods and services furnished by criminal organizations act voluntarily and, hence, do not view themselves as victims. Furthermore, the victims of non-consensual OC activities (e.g., extortion) often stay quiet due to intimidation.

This harm-based approach is intuitively compelling as the ultimate goal of more broadly based OC control efforts is to minimize the adverse effects of criminal organizations. Whether the aim of a particular program is to "decapitate" a criminal organization or to reduce the supply of an illicit substance or service, achieving these aims is of limited value if the harms produced by the organization or substance are unabated. Measuring harms, however, is no simple task.

The first category of harm defined by Maltz (1990) is **physical harm**. Even this, the most concrete of all harms, is difficult to measure with accuracy. The counting of acts of violence is impeded by a substantial "dark figure". Even homicide, purportedly the most accurate barometer of violence, is counted with a significant degree of error (Gabor, Hung, Mihorean, and St. Onge, 2002). Questions arise as to whether a violent death was due to an attack, was self-inflicted deliberately, or was unintentional. Also, the assessment of whether a homicide was a "gangland slaying" is not always clear.

Measuring **economic harms** incurred by victims is also complex. The direct damage done to a commercial building that has been burned down can be quantified quite readily. Calculating the secondary effects--the loss of a business, need for added security, higher insurance premiums, loss of wages, and other, more enduring effects—is a more difficult undertaking. Also, the victim in this case would include the owners and occupants of the building, employees, as well

as the surrounding neighbourhood. Also, do we classify those who voluntarily purchase illicit goods and services as victims in tallying the amount of economic harm produced by OC?

Intimidation and fear are staples of OC. However, quantifying the number of people experiencing **psychological harm**, as well as its varying intensity, is daunting. There is a substantial "dark figure" of business people, witnesses, and offenders who face such intimidation in any jurisdiction.

OC can engender considerable **community harm**. Arson can blight an area, protection rackets can damage the business community, and drug dealing or prostitution can contribute to the community's disintegration. Maltz (1990:45) recommends surveying community residents and business people to quantify the extent of this harm. However, people may have no idea as to the extent to which the behaviour in question is attributable to OC.

Societal harm involves threats to the governance of a country or region. This might be ascertained through public surveys probing the corruption of public officials and law enforcement. However, public perceptions may be inaccurate and unduly influenced by disclosures in the media. They may also vary significantly based on local conditions. Ironically, those neighbourhoods that are most affected by OC may be least likely to provide information, leading to the erroneous conclusion that the most affected areas are the least affected (Maltz, 1990:46).

Other Measures

Other measures proposed in assessments of OC control efforts have included seized assets, changes in the number of businesses or industries infiltrated, and changes in the level of public support for OC. The amount of seized assets is likely to constitute a very small proportion of a criminal organization's total assets and reflects enforcement activities themselves. Money-laundering practices, too, give us little indication of the proceeds of OC, as this type of concealment may be a manoeuvre used by private citizens or legitimate enterprises to evade taxes, rather than an activity of OC (van Duyne, 1994).

With regard to measures of infiltration, a similar paradoxical situation may prevail as in the case of quantifying societal harm. That is, surveys of heavily infiltrated industries might yield less information on OC than those of sectors that are less affected. Finally, measures of changes in the public's tolerance of OC can be useful; however, such changes may be based more on erroneous impressions of OC than on actual changes in OC's activities.

4.0 Organized Crime Control Strategies and Their Effectiveness

This chapter examines the effectiveness of the various strategies and tools available to combat OC. These measures are highly varied, ranging from the incapacitation of major OC figures and the forfeiture of their proceeds of crime to witnesses protection programs and electronic surveillance. As these initiatives cannot be readily categorized into discrete groups (e.g., legal versus investigative strategies), they are all presented in this one section. The order of their presentation is not a reflection of their relative importance, prominence, or effectiveness.

4.1 Prosecuting Persons Involved in Organized Crime

A number of countries have passed legislation prohibiting participation in the activities of a criminal entity or organization. Perhaps the best known of these laws is the Racketeer Influenced and Corrupt Organizations (RICO) statute in the US. Enacted in 1970, RICO defines racketeering very broadly, including murder, kidnapping, gambling, arson, robbery, bribery, extortion, drug dealing, and a list of federal offences, such as loansharking, counterfeiting, mail and wire fraud (Abadinsky, 2003:318).

RICO has facilitated the prosecution of those involved in OC, as the use of traditional conspiracy statutes has proven difficult. Rather than having to prove a series of distinct conspiracies, under RICO it is a crime to belong to an enterprise that is involved in a "pattern of racketeering", even if that pattern was displayed by other members. A "pattern" refers to just two or more of the specified offences within a ten-year period. The violation of RICO's criminal provisions may result in imprisonment for 20 years and/or a fine of up to $25,000 (Abadinsky, 2003:319).

RICO also contains provisions according to which citizens can sue for damages to their business or property. They stand to recover threefold the damages sustained, as well as the cost of the suit. RICO also has asset forfeiture provisions, as well as those pertaining to the divestiture of the interests of OC figures in businesses and unions. These issues are discussed in the sections on the Seizure and Forfeiture of Assets and Injunctions, Divestitures, and Trusteeships.

By 1990, more than 1,000 major and minor OC figures had been convicted under RICO and given lengthy prison sentences (Abadinsky, 2003:319). The threat of long sentences has also served as a stick to gain the cooperation of defendants. Also, Giuliani (1986:106) argues that RICO "enables the Government to present a jury with the whole picture of how an enterprise, such as an organized crime family, operates. Rather than pursuing the leader or a small number of subordinates for a single crime or scheme, the Government is able to indict the entire hierarchy of an organized crime family for the diverse criminal activities in which that "enterprise" engages."

All five New York crime families have been disabled by RICO convictions. Giuliani (1986:106) points out that RICO allowed for the prosecution of the "entire upper echelon of the Colombo

organized crime family." In addition, its requirement of proving a "pattern of racketeering activity" and its broad definition of "racketeering activity" allowed the prosecution in the Columbo case to include in a single indictment the various state and federal offences committed by that Family over a period of 15 years.

The same broad definition of racketeering that has served as a virtue of RICO has also been subject to considerable criticism (Greek, 1991). RICO has been used to prosecute many individuals without OC connections and brings with it the stigma of being labeled a "racketeer" (Abadinsky, 2003:320). In Chicago, for example, a deputy sheriff and traffic court clerk were convicted under RICO for fixing parking tickets. RICO has also been used frequently to deal with crimes by legitimate corporations. In fact, any enterprise committing two or more felonies within a 10-year period is subject to prosecution under RICO (Albanese, 1996:197). RICO has been judged a "dramatic failure" in attacking OC's infiltration of legitimate businesses, as fewer than eight percent of the cases fall within this category (Lynch, 1987). Ironically, many RICO cases have involved government agencies that have been corrupted (Greek, 1991).

Aside from RICO, federal prosecutors in the US can avail themselves of another statute to target OC figures. The Continuing Criminal Enterprise (CCE) law, enacted in 1987, is limited to drug traffickers and makes it a crime to engage in a conspiracy to commit at least three related violations of felony drug laws with five or more individuals (Albanese, 1996:199). It provides for mandatory minimum sentences of 20 years for first violations, fines up to $2 million, and forfeiture of profits and any interest in the enterprise.

Data for 1990 indicates that, for both RICO and CCE cases, just about a third of suspects investigated are eventually charged (Albanese, 1996:200). This is due to the complexity and length of these cases, although some of those not charged under RICO or CCE are eventually charged with other crimes. Once charged, more than 80% of the defendants prosecuted under these laws are convicted.

Approximately one-half of US states have passed their own RICO laws, although they have not been used very frequently thus far (Albanese, 1996:199). A survey of local prosecutors found that less than a third reported a prosecution against OC between 1989 and 1991 (Rebovich, Coyle, and Schaaf, 1993:8).

In Canada, Sections 467.11 to 467.13 of the Criminal Code prohibits participation in and contribution to criminal organizations or the commission of indictable offences for the benefit of such an organization. This review did not uncover any studies assessing the implementation or impact of these provisions on criminal organizations or their activities.

4.2 Prosecuting Organized Crime Kingpins

For decades, law enforcement strategies have focused on identifying and prosecuting the leaders of criminal enterprises (Lyman and Potter, 1997:433). Members may be charged or arrested for relatively minor infractions. Charges for even small infractions provides prosecutors with the leverage to conduct further investigations of the group. The goal is to get "smaller fish" to "flip" and testify against the heads of the organization. The ultimate aim is to disrupt the group. This

"headhunting" strategy is predicated on the assumption that OC operations are too complex to be proven in court.

According to the President's Commission on Organized Crime (1986:205), there have been no rigorous assessments of the headhunting strategy. However, there is evidence that the US government incapacitated many OC leaders during the 1980s. By 1985, about two-thirds of the alleged Mafia bosses in the US were under indictment or convicted (President's Crime Commission, 1986:47). In 1984 alone, a total of 2,194 OC indictments occurred, almost all of which involved alleged Mafia members (Lyman and Potter, 1997:435). By 1988, 19 bosses, 13 underbosses, and 43 captains had been convicted (Albanese, 1996:120). Furthermore, the prison sentences imposed on high-ranking OC figures during the 1980s tended to be very lengthy (Albanese, 1996:120).

Lyman and Potter (1997:435) question whether these efforts at decapitating and otherwise disrupting leading OC groups can be declared a success:

> The problem with all this activity is that the government has failed to produce even a scintilla of evidence that any of these prosecutions have resulted in a diminution of organized crime's illicit ventures. The federal government simply has no measures of the amount of harm caused by organized crime with which to measure such an impact... But other indicators seem to suggest that organized crime is alive and quite healthy despite these law enforcement efforts.

Lyman and Potter then provide several examples of major prosecutions of syndicates and their leaders that have either failed to reduce the volume of illicit activities, spawned other networks that have replaced the targeted group, led to restructuring within the affected group, triggered the revival of a group that had ceased operating for a decade, and that have even facilitated OC by eliminating less efficient operators.

Former US Attorney and New York mayor Rudolph Giuliani (1986: 104) has added:

> the traditional prosecutorial model of attacking organized crime—the conviction and temporary incapacitation of the heads of a crime family for discrete crimes—has not greatly diminished the family's power and ability to survive, if not flourish. No doubt, the unenviable record of short term success in prosecuting the leaders while leaving intact the infrastructure of organized crime weighed heavily on the Congress in 1970 as it considered remedial legislation.

Hoffman (1987:95 in Bynum) reinforces this point by stating that, "As the history of enforcement efforts against organized crime indicates, demands still remain for illicit goods and services after leaders are incapacitated; opportunists in criminal groups merely take the place of those locked up."

Mastrofski and Potter (1987:283) provide a number of examples of the manner in which OC networks adapt to the incapacitation of the leadership of a particular group. One illustration involves a major gambling operation in Philadelphia. Prosecutions directed at this operation in

the early 1980s "spawned at least two dozen other criminal networks in the same neighbourhood as replacements for the crime group that had been targeted."

Lyman and Potter (1997) attribute the poor outcomes of headhunting strategies to misunderstandings about the workings of OC. They note that crime syndicates have learned to adapt their structures and practices in the form of decentralization and relationships that are more short-term. As headhunting disables just a small proportion of OC entrepreneurs at any given time, it may actually strengthen some groups by weeding out their inefficient competitors.

Another shortcoming of the headhunting strategy is that they often target easier cases involving highly visible, but not necessarily influential, crime figures. Targeting high-profile gangsters who are relatively easy to convict makes for good press, but will yield little in terms of impact. Lyman and Potter (1997:436) contend that, "It is the relative immunity of major figures in organized crime, such as corrupt officials, money launderers, and others who serve as bridges between the underworld and the upper world that so clearly demonstrates the deficiencies in the headhunting strategy."

4.3 Prosecutions Through the Use of Taxation Laws

Citizens have obligations as taxpayers to file tax returns, make truthful declarations, and maintain complete business records. When income cannot be accounted for, whether connected to illicit acts or otherwise, recourse exists in the form of prosecutions for failing to report it. The Internal Revenue Service in the United States, for example, employs special agents who are charged with gathering evidence of criminal violations for prosecution by the Department of Justice.

Tax-related fraud can be established via direct and indirect methods (Abadinsky, 2003:313). The direct method involves the identification of unreported taxable receipts, overstated costs and expenses, and improper claims for credit or exemption. The advantage of this method is that the evidence is easier for jurors to understand.

OC figures, however, tend to avoid a paper trail—dealing in cash and maintaining few records—or set up legitimate businesses as fronts to conceal the illicit sources of their income. One indirect method of ascertaining their income is the net-worth method. Using this approach, a taxpayer's net worth is established as precisely as possible at the beginning of the taxation period. This amount is then subtracted from his or her net worth at the end of that taxation period. The net gain is considered the taxpayer's income, which is then compared with the income declared for that period. The government does not need to show a probable source of the gain in net worth that is unreported. Other indirect methods compare expenditures and bank deposits with reported income (Albanese, 1996:170).

The most celebrated target of this type of financial investigation was Al Capone. He could not account for over $100,000 of expenditures a year through legitimate income and was ultimately convicted for failing to pay taxes on $1 million of illegal income (Albanese, 1996:171). From 1960 to 1965, over half of all convictions of OC leaders in the United States stemmed from tax investigations (Rhodes, 1984).

One high-profile investigation, conducted by the United States' Internal Revenue Service during the 1960s, was Operation Tradewinds (Block, 1991). This investigation developed information on OC figures and others who took money made illegally to the Bahamas and invested it there. Weak regulations and lax enforcement turned the Bahamas into a tax haven for various forms of tax scams. After ten years, the operation produced $25 million in taxes and penalties and initiated 13 investigations resulting in criminal proceedings. Although seriously under funded, Tradewinds generated critical information (Block, 1991). On the downside, the project produced some undesirable consequences with regard to foreign policy (i.e., conflicts with Bahamian authorites) and was controversial in its intrusion into the private financial dealings of Americans (Rhodes, 1984: 73-74).

4.4 Monitoring Financial Transactions and Tackling Money Laundering

In the United States alone, drug trafficking and other profit-motivated crime generate in excess of $300 billion annually (Karchmer and Ruch, 1992:1). The risks associated with the accumulation of and transactions in large sums of cash earned illicitly are substantial, as these assets may be seized and the owner may face criminal prosecution. Hence, to obtain the full benefit of illicit activities, offenders must convert their cash proceeds of crime to another form in order to engage in everyday commerce. Money laundering has been described as, "the process of converting illegally earned assets, originating as cash, to one or more alternative forms to conceal such incriminating factors as illegal origin and true ownership" (Karchmer and Ruch, 1992:1).

Money laundering schemes vary in complexity (Beare, 1996:102-106), depending on the distance that criminals wish to put between their illegally earned cash and the laundered asset into which that cash is converted. Banks and other financial institutions, for example, issue negotiable instruments such as cashier's checks and money orders in exchange for cash. These funds can then be used to acquire assets (e.g., legitimate businesses) that provide offenders with a source of income that appears legitimate and confers on them an image of respectability. Businesses with high volumes of cash sales (e.g., restaurants, bars) are especially attractive, as business volume is difficult to ascertain accurately during audits.

Also, laundering specialists may be retained; e.g., couriers to transport currency to laundering sites and lawyers to create trust accounts and transfer funds to a foreign account. Full-service organizations have been set up to facilitate money laundering. Perhaps the most notorious was the Bank of Commerce and Credit International (BCCI). Shut down by regulators in several countries, it was referred to as "the most pervasive money laundering operation and financial supermarket ever created" and as a "steering service" for Colombian drug traffickers to deposit hundreds of millions of dollars (Webster and McCampbell, 1992: 1).

One method available to detect money laundering schemes involves the analysis of currency transactions. Canada, the US, Australia, the UK, and other countries require that financial institutions record or report large transactions (usually sums of $10,000 or more) and/or report suspicious transactions. Lawyers and financial advisors, too, are required to report suspicious transactions in various countries, although Canadian legislation exempts lawyers from doing so (Porteous, 2003: A15). US legislation also requires the reporting of the transportation of

currency and bearer instruments in excess of $10,000 into or out of the US (Abadinsky, 2003:326). More than 12 million currency transaction reports are produced there annually.

Various US states also routinely analyze data obtained from currency transaction reports to identify both institutions and individuals involved in high volumes of cash transactions (Karchmer and Ruch, 1992:5). Such analyses are limited by the tendency of more sophisticated laundering schemes to conceal the ownership of funds, to break up large sums of money into lots of less than $10,000 ("smurfing"), or to circumvent the reporting of large transactions through the complicity of employees of financial institutions.

The United States Treasury Department's Financial Crimes Enforcement Network (FinCen) plays a key role in combating OC internationally, using anti-money laundering laws, providing intelligence, and case support to American and international investigators and regulators (Abadinsky, 2003). FinCen's 200 employees include intelligence analysts and criminal investigators, as well as financial and computer specialists. It maintains a database that documents every suspicious-activity report since they were initiated in 1996.

Furthermore, under the Currency and Foreign Transactions Reporting Act, the United States can compel other countries to maintain financial records similar to those maintained in the US (Abadinsky, 2003:327). The financial institutions of countries that fail to establish an acceptable records system may be denied access to the US banking system. The implementation of this legislation is problematic as few countries require that financial institutions collect and report information on large or suspicious transactions (Abadinsky, 2003:328).

It is hard to quantify the number of money launderers who are prevented from plying their trade in the US as a result of the reporting requirements. However, the information obtained as a result of US reporting requirements has been used extensively in regulatory, civil, and criminal investigations (Osofsky, 1993:364).

The United States General Accounting Office has examined the enforcement of the Bank Secrecy Act of 1970, the legislation that required the reporting of transactions or transportation in or out of the US of large sums of currency. The GAO found that the US' Treasury Department did not actively enforce the Act until 1985. The number of civil reviews for compliance increased to 76 in that year, most of which involved admissions of possible noncompliance by financial institutions (Albanese, 1996: 201). Civil penalties for just 11 of the 76 reviews totaled over $5 million. By 1990, the Internal Revenue Service's Criminal Investigation Division had undertaken investigations resulting in over 1,000 convictions for offences related to money laundering in just a three-year period (General Accounting Office, 1991).

Overall, the GAO evaluation found that the potential of the Bank Secrecy Act was not being realized. One problem is the sheer volume of currency transaction reports filed annually: currently, this volume is 12 million. The large volume of reports has made meaningful analysis difficult. Also, while an amendment to the Act made it illegal to undertake multiple transactions just under $10,000, the US Supreme Court ruled in 1994 that people could not be convicted for "smurfing" without proof that they knew such action to be illegal (Albanese, 1996:202).

Another audit by the US General Accounting Office (1994) documents the limitations of the reporting requirement for the movement of over $10,000 in currency into or out of the US. Just a fraction of currency being smuggled across the American border is seized. The audit concluded that the volume of smuggled currency cannot be ascertained due to the clandestine nature of the activity. The smuggling of cash is impeding efforts to control money laundering.

The evidence from the United Kingdom does not invite greater optimism. As of 1995, 16,000 suspicious transaction reports had been filed—60-fold the number initially predicted (Levi, 1997:7). Fewer than one-half of one percent of these reports have been found to lead to new investigations or have had a significant impact on the outcome of a case (Levi, 1997:8). Levi (1997:7) notes that these reports, "seldom provide information that would enable the police or customs to mount a surveillance operation on a target offender. The information does help to build up a profile, and multiple reports on the same person or on connected persons may trigger more detailed investigation, but mainly if the person is "already" known or under investigation anyway." Levi adds that because just a small proportion of reports receive more than routine checks on criminal intelligence databases, the proportion of reports that would yield evidence of crime, if followed up thoroughly, is unknown.

Gold and Levi (1994:87) express doubts about the potential of suspicion-based disclosure systems to detect major crime because the evidence indicates that large-scale offenders tend to be aware that large deposits in legitimate financial institutions will create problems for them. Gold and Levi point out that such offenders adapt to these reporting requirements and this accounts for an increase in the use of exchange bureaus and for the use of financial systems in European countries with less stringent reporting rules. They add that there is little evidence that financial institutions have been successful in spotting the misuse of front companies that intermingle crime-related with legitimate proceeds. In general, the surveillance of business accounts by bank staff tends to be minimal. Most transactions classified as suspicious are unsophisticated and involve personal accounts of known individuals.

In 1988, Australia established one of the most advanced reporting systems via its Cash Transaction Reporting Agency (now referred to as AUSTRAC). By 1993, approximately 90 percent of cash transactions over A$10,000 were electronically conveyed to AUSTRAC (Levi, 1997:8). In addition to the reporting of significant transactions, this system has a suspicious transaction reporting component. Between 1990 and 1993, 1.6 million significant transactions were reported. In 1994-95, AUSTRAC received 36,000 reports of international currency transfers, close to one million reports of cash transactions, and 3.6 million reports of international capital transfers. The estimated cost of supplying these reports in 1992 was A$3.5 million. According to Levi (1997), the Australian Tax Office made modest claims regarding the value of the significant transaction reports, because their efforts were focused on transactions deemed to be suspicious. Law enforcement authorities, too, have made few claims about the impact of significant transaction reports. The Australian Senate Standing Committee on Legal and Constitutional Affairs called for the retention of significant transaction reports partly on the basis of the view that it was too early to comment on their forensic value (Levi, 1997:9).

Between 1990 and 1995, just over 20,000 suspicion-based reports were forwarded to AUSTRAC. The additional revenue generated by AUSTRAC averages $13 million per year,

nearly all of which is attributable to the suspicion-based rather than significant transaction reports. Suspicion-based reports are usually triggered by the structuring of transactions below the $10,000 threshold (or smurfing), international transfers of substantial amounts of cash, and cash transactions involving those who are not regular clients of the branch (Levi, 1997:10). A review in 1992 indicated that less than 10 percent of reports result in any direct action by law enforcement or taxation authorities (Levi, 1997:9).

By contrast, in Canada, just over 100 cases have been referred to the RCMP by FINTRAC, the new Canadian center that tracks financial transactions (Cordon, 2003:A12B). As the new Proceeds of Crime Act and Terrorism Financing Act that led to the creation of this center have only been introduced two years ago, it is too early to draw conclusions about its impact. The reporting of suspicious financial transactions did not begin until November, 2001 (Auditor General of Canada, 2003). In 2004, the Auditor General will report on the implementation of these new laws.

Overall, Levi (1997:11) concludes that while the impact of money-laundering regulations cannot be determined, they serve certain investigative and symbolic ends:

> [laundering regulations] appear to be most useful as an ex post facto audit trail for following through known leads. As for Australia, existing reviews suggest that insufficient use is being made of what I regard as the most technologically advanced set of controls…One of the core common issues internationally seems to be that many enforcement insiders assumed that once they got the banks on their side…cases would just fall into their lap since banks already knew about their customers' crimes. [In reality] all one has is an "out of character" financial transaction, the explanation of which usually cannot be simply sought from the parties involved, if they are thought to be criminals…insufficient police or customs staffing has been devoted to them: a common problem of inadequate resourcing for police functions. In this sense, money-laundering legislation could be viewed as being at the symbolic end of the symbolic-instrumental legislation axis…

The impact of money-laundering laws may be even more modest when one examines the results of those investigations that deal strictly with criminal enterprises.

While the jury is still out in terms of the impact of money-laundering laws and the evidence to date is not reassuring, a number of investigations are noteworthy in their disruption of criminal activities. Two examples are those of Operation Greenback and the "Pizza Connection" case.

Operation Greenback, for example, was the first US government task force concentrating on money laundering. Referred to as the first successful attempt to take the profit out of drug trafficking, it was initiated in 1980 and, during its first three years, the project produced 40 indictments against 152 individuals from 40 organizations. One hundred and eleven people were arrested and $33 million in US currency seized. The project yielded millions of dollars of additional seizures in property, as well as substantial amounts forfeited (Dombrink and Meeker, 1987: 729). In the "Pizza Connection" case, an elaborate scheme was set up to launder the proceeds of heroin smuggled from Southeast Asia and distributed in the eastern US by the

Sicilian Mafia. At least $25 million was laundered in this case and 38 individuals were indicted as a result of the investigation (Webster and McCampbell, 1992:4).

One multilateral initiative has been the Financial Action Task Force (FATF) formed by G-7 countries in 1989 to study measures to prevent the use of financial institutions by money launderers and to foster cooperation in laundering cases. The task force has developed a series of recommendations to assist countries in combating money laundering and has been evaluating the progress of members in implementing these recommendations.

Nearly all G-7 members have made money laundering an offence or are about to do so (US General Accounting Office, 1993:23). FATF efforts have also led to bilateral agreements among member and non-member countries to provide mutual assistance in freezing and forfeiting drug profits. FATF also fosters the exchange of information on money laundering. Its activities are compatible with the idea that the global implementation of money-laundering controls is necessary as traffickers will continue to seek the weakest link in financial systems.

International efforts, however, are hampered by differences in the scope of legislation pertaining to money laundering, in bank secrecy, and in legal systems in general (US General Accounting Office, 1993:23). Also, differences among members in the reporting of financial transactions, as well as in seizure laws, impede the rapid exchange of information and the extradition and prosecution of offenders. In its evaluations, FATF also identified a need to define what constitutes a suspicious transaction more clearly to gain improved cooperation from banks.

While FATF assesses the compliance of members with its recommendations, it has no enforcement authority. In most countries, money-laundering controls are the responsibility of financial institutions. While countries impose penalties on these institutions for non-compliance with established controls, banks may lack the capacity or expertise to institute them. Moreover, many central banks may lack the resources to assist banks in complying with reporting requirements or to assess their banks' money-laundering controls (US General Accounting Office, 1993:32).

4.5 Seizure and Forfeiture of Assets

Money has been said to be the lifeblood of the drug cartels, enabling them to finance the manufacture, transportation, distribution, murder, and intimidation that are critical to their illicit activities (Beare, 1996:131). Operations to combat money laundering and to deprive such groups of the proceeds of crime can deprive them of this key flow of money. The forfeiture of assets obtained through crime also is said to remove the incentive from engaging in unlawful behaviour (Lyman and Potter, 1997:419). Furthermore, the forfeiture of assets—amounting to about $500 million a year in the US--can finance the prevention and control of organized and other crime (Abadinsky, 2003:323). It can also (at least theoretically) mitigate the damage to the economy occasioned by the large volumes of untaxed profits in the illicit marketplace (Albanese, 1996:226).

Seized and forfeited items can include cash, buildings, land, motor vehicles, and airplanes (Stahl, 1992). Forfeiture laws can pertain to assets that facilitate criminal conduct (e.g., cars used in

smuggling, houses used to store contraband) and/or those that are the proceeds of crime. The forfeiture of crime proceeds can be quite complex as the government must prove the ownership of property and trace it to criminal behaviour. This latter task becomes more difficult when individuals keep converting the proceeds into different forms (Abadinsky, 2003:323).

Forfeiture has been criticized on the grounds that innocent parties have been harmed and that forfeiture laws have often been applied to low-level criminals. Innocent parties can include joint tenants, business partners, lien holders, and purchasers who have not been informed that a property subject to forfeiture proceedings was used in, or derived from, the criminal activity of others. In addition, these laws have been said to turn due process on its head (Abadinsky, 2003:326). Civil forfeiture proceedings, for example, are directed against property (independent of any criminal proceeding) alleged to have been used in criminal activity. In the American context, these proceedings require only that the government show probable cause that the property was implicated in criminal activity. The burden shifts to the property owner who must show by a preponderance of the evidence that this was not the case (Albanese, 1996:228).

Another objection to forfeiture is that the assets taken are often shared by law enforcement agencies, creating an incentive for these agencies to target the most wealthy, rather than the most dangerous offenders (Naylor, 2000).

Yet another concern centers around the storage and disposition of seized and forfeited assets. The most commonly seized assets are cash and cars, followed by boats, planes, jewelry, and weapons. Residential and commercial property is seized less frequently, but tends to have a higher monetary value (Albanese, 1996:230). Once assets are seized, they must be appraised and then stored and maintained, while ownership and third party claims are heard in court. In the event of a successful forfeiture proceeding, the property must be disposed of. Storage and maintenance can be profitable, but can also be costly. The disposal, too, may be difficult as no buyer may be found for a certain item. The US Marshal's service has over 200 employees assigned to handling assets seized by federal agencies and the US Custom's Service has more than 100 full-time paralegals to manage seized property (Albanese, 1996:230).

According to Beare (1996:171), the Canadian Proceeds of Crime legislation was not initially accompanied by measures to manage seized assets. She asserts that, "Unfortunately, no adequate provision was made for the management and maintenance of the goods seized by police." The challenges and liabilities involved in the seizure of certain properties were illustrated by the RCMP's seizure, in 1990, of the Ski-Montjoie facility in Quebec. Police investigations indicated that this resort was owned by drug traffickers who purchased it with money laundered through Switzerland. At the time of seizure, its market value was approximately $4.5 million. However, the government faced creditors whose claims totaled $2.5 million. Also, it had difficulty selling the property as land values in the area declined following the seizure (Beare, 1996: 171).

It became apparent that law enforcement agencies were not equipped to deal with property management and, hence, in 1993, The Seized Property Management Act was introduced to authorize the federal government to manage seized property and to dispose of it when forfeiture is ordered by the courts. A directorate was formed to carry out these and related tasks within the Department of Public Works and Government Services Canada.

There have been a number of high-profile seizures of property in Canada since the Proceeds of Crime legislation was introduced. One of the largest resulted from a drug investigation involving the RCMP, Vancouver Police Department, and the US' Drug Enforcement Administration. More than $15 million in property—primarily vessels and real estate—was seized in British Columbia and $57 million in property was seized in the US (Beare, 1997:122). From 1989-1993, Canadian police have seized assets of drug-related crimes totaling $72 million (Canadian Association of Chiefs of Police, 1993).

Over the last 12 years, the Canadian government has implemented various strategies to combat money laundering and to confiscate the proceeds of crime. In 1992, the Integrated Anti-Drug Profiteering (IADP) initiative was introduced. Three multi-jurisdictional investigative units were established. Based in Canada's three largest cities, these units comprised the RCMP, provincial, and municipal police personnel, Department of Justice counsel, and forensic accountants from Revenue Canada-Customs. Annual evaluations indicated that the integrated approach improved drug-related investigations and prosecutions (Gabor, 1994); hence, the project was expanded to 13 units that were now mandated to target a whole range of enterprise crimes (Department of Justice Canada, 2000).

No comprehensive, systematic evaluation of the forfeiture strategy has been undertaken. A Department of Justice Canada (2000:3) report indicates that, "Adequate information on resource utilization and costs, as well as long-term impacts on organized crime was not available." The evidence that is available, however, suggests that proceeds of crime prosecutions tend to be complex and time consuming. Gibbon (1994), for example, reports on two cases in 1994 that took four years to develop.

In the United States, forfeiture laws at the federal level have not been applied until quite recently. Between 1970 and 1980, the Rackateer Influenced Criminal Organization (RICO) and Continuing Criminal Enterprise (CCE) provisions were used in just 98 drug cases and assets forfeited amounted to only $2 million (Albanese, 1996:227). This record is poor when it is considered that more than 5,000 Class 1 violators were arrested by the Drug Enforcement Administration in that decade. These statutes were also designed to combat the infiltration of legitimate businesses by OC; however, an audit by the General Accounting Office revealed no forfeiture of "significant derivative proceeds or business interests acquired with illicit funds" (Albanese, 1996:227).

The Organized Crime Drug Enforcement Task Force Program (OCDETF) was established in 1983 in the United States. The 13 task forces around the US involve 10 federal, as well as state and local agencies. In the first two years of operation, the task forces had seized $52 million in assets in cases involving 1,408 offenders (Albanese, 1996:227). By the end of 1990, federal law enforcement agencies had seized $1.4 billion in cash and property. In 1991, the Drug Enforcement Administration seized property valued at $956 million (Bureau of Justice Statistics, 1992). Also, in 1992, several states reported forfeitures that exceeded the seed money used to generate them by ratios of 6:1 (Lyman and Potter, 1997:420).

Notwithstanding these and other enforcement efforts, the General Accounting Office asserts that their impact is unknown due to insufficient experience with the application of forfeiture laws

(Albanese, 1996:227). Furthermore, the President's Commission on Organized Crime (1986:345) has noted that the reliability of information on the seizure of non-drug assets is undermined by double counting, decentralization, and variations in data gathering methods. According to a study cited by the Commission (Stellwagen, 1985), more than one-half of state and local officials could not estimate the value of confiscated property. The determination of the value of such property is an essential part of an overall analysis of the benefits of forfeiture laws.

Levi (1997: 12-13) argues that the UK experience shows that the proportion of crime proceeds confiscated is miniscule—far less than one percent by his calculations—because major criminals are often not convicted, forfeiture proceedings may be unsuccessful, and offenders may spend much of their proceeds, leaving them with far fewer assets than profits from crime.

An evaluation of the Australian experience also illustrates the limitations of forfeiture laws. Freiberg and Fox (2000) begin by pointing out that the determination of the deterrent effects of these laws is complex, as the effects of forfeiture must be disentangled from the effects of the sentence imposed for the predicate offence. The authors note that, in Australia, only 10 percent of all convictions are on indictable offences—the remainder are summary convictions—and only indictable offences can serve as the basis for confiscation applications. Thus, a significant proportion of crime proceeds acquired in the commission of federal offences is not recoverable via the proceeds of crime legislation in that country. Just over 10 percent of cases involving indictable offences--1 percent of all offences--are subject to a confiscation order.

In Australia, assets confiscated under the proceeds of crime legislation average between A$10 and A$13 million per year (Freiberg and Fox, 2000:250). When one considers that the proceeds of crime have been estimated to be as high as $9 billion a year, well under one percent of crime profits are forfeited. The authors, as well as other commentators in Australia, assert that this record reflects a low level of enforcement of confiscation laws and a minimal incapacitation effect on crime.

Furthermore, just a minority of the forfeitures involved persons affiliated with OC groups. The authors cite a study in Germany indicating that there, too, the most common forfeitures involve drugs or assets used in offences by consumers or small-scale dealers, rather than members of OC groups (Benseler, 1997). Further undermining the effects of forfeiture laws is the gap between confiscation orders and assets actually recovered. In the UK, less than one-quarter of the funds ordered to be confiscated between 1987 and 1993 were actually recovered (Levi and Osofsky, 1995:3). In Australia, the amount realized by pecuniary penalty orders and forfeiture orders was 28% of the value of restraining orders (Freiberg and Fox, 2000:253). As for the costs of confiscation, the Australian experience indicates that, at the federal level, the efforts are marginally profitable, as it is estimated that it costs roughly $75 to recover $100.

The Australian study identified a number of impediments to the success of forfeiture laws (Freiberg and Fox, 2000:259-260):

- both in Australia and abroad, forfeiture is not viewed as a core function by law enforcement agencies;
- coordination within and between agencies is lacking;
- expertise is lacking in what is viewed as a highly technical and peripheral aspect of policing;
- other than in those jurisdictions (primarily the US) where agencies can retain a percentage of the confiscated assets, little incentive exists to pursue the long and expensive forfeiture proceedings;
- courts are often hostile to forfeiture legislation, interpreting these laws very strictly due to their perceived intrusion upon basic rights (e.g., their frequent reversal of the burden of proof).

4.6 Injunctions, Divestitures, and Trusteeships

Whereas asset forfeitures remove the racketeer's ill-gotten gains, the federal system in the US and other jurisdictions have civil remedies designed to eliminate the influence exerted by OC figures in legitimate businesses, unions, and other organizations (Giuliani, 1986:111). Under the RICO legislation in the US, court injunctions may require defendants to divest themselves of interests in tainted enterprises, may impose reasonable restrictions on the future activities and investments of an individual, and may order the dissolution or reorganization of any enterprise (Giuliani, 1986:111). While little information exists regarding the frequency with which these provisions have been used, Giuliani notes that that they have been used very infrequently.

Some labour unions, for example, have historically been dominated by OC. While prosecution has been unsuccessful in remedying the problem of these captive unions, court-ordered trusteeships have re-established democratic processes and thereby freed the union of labor racketeering. One of the best known cases involved Local 560 of the International Brotherhood of Teamsters in New Jersey (Goldstock, 1994:435). In this case, the district court granted broad permanent injunctive relief whereby the court enjoined two defendants from "any further contact of any kind" with the union and removed the union's entire executive board in favour of a trustee whose responsibility it was to ensure fair elections (Giuliani, 1986:112). In other cases, such remedies have been used to deal with racketeering in the hospitality and cement industries.

While systematic evaluations, including the costs of pursuing court injunctions, are absent in this area, Giuliani (1986:112) has been a strong proponent of these remedies. He asserts that they are a powerful tool for permanently dissolving criminal organizations and for preventing the infiltration of legitimate businesses by OC figures. He views these remedies as especially crucial in industries that have been particularly vulnerable to OC penetration. Giuliani notes that the incarceration of an OC lieutenant may disrupt operations but does not put the enterprise out of business. So long as OC's property remains, new leaders will replace those that have been imprisoned. These legal tools, according to Giuliani (1986:112) "have the power to permanently divest organized crime of its corrupt economic base."

4.7 Witness Protection Programs

These programs are designed to protect witnesses who testify in cases involving OC. They provide for the health, safety, and welfare of these witnesses, as well as their families. Such programs may involve the relocation of witnesses and their families, and the provision of new identities and jobs. In the United States, the program has stretched resources, as the number of individuals protected by the program has been far in excess of that anticipated. By the end of 1996, 6,500 witnesses and 15,000 dependents had entered the program (Sabbag, 1996). The annual cost exceeds $25 million, well in excess of the original estimate of less than $1 million (Albanese, 1996:193).

A major criticism of such programs is that they provide career criminals with "clean" backgrounds that they can use to prey on an unsuspecting public (Abadinsky, 2003). This is especially a concern as the allowance provided by these programs tends to be far more modest than the income these individuals can typically generate from crime. There are many documented cases of witnesses committing major crimes with the help of their new identities (Abadinsky, 2003:335). Another serious concern is that estranged spouses of those protected by the program have encountered difficulties visiting and maintaining a relationship with their children (Tulsky, 1987). Furthermore, the US Department of Justice does not always receive the cooperation of other federal agencies in obtaining military records, social security cards, medical records, and other documents (Rhodes, 1984:183; Mathews, 1990).

Rhodes (1984) asserts that the US program is largely tailored to career criminals and may not serve non-offenders as well. He describes a case in which a New York City businessman, upset with his brother's narcotics addiction, testified against OC figures with whom he had some legitimate contact. His information helped obtain the conviction of several racketeers and his courage was rewarded by advice provided by officials from the Witness Protection Program that he ought to hastily sell his lucrative business and home, and relocate to Texas. He was also advised to terminate any direct contacts with friends and relatives. The witness eventually committed suicide. This story and others like it suggest that there may be fewer incentives for non-criminals to participate in witness security programs (Mitchell, 1981). Many witnesses find the process of changing their identities and concealing their past highly stressful (Montanino, 1984: 503).

These programs do, however, appear to afford protection. From 1961-1965, prior to the establishment of the US program, the US Department of Justice lost more than 25 informants in OC cases (Kelly, Schatzberg, and Chin, 1994: 497). Hundreds of other prosecutions were stymied because witnesses feared for their lives. While about 30 witnesses who have left the US program have been murdered, none following program guidelines have met this fate (Sabbag, 1996). (Another source indicates that a protected witness in a drug case was murdered in Arkansas (Mitchell, 1981)). The program boasts a 97 percent success rate in protecting witnesses under supervision (Lyman and Potter, 1997:433).

Montanino (1990:127) asserts that, "Of all the [US] government's strategies for combating serious criminality, the Federal Witness Security Program has been the most successful." Giuliani (1986:115) adds that, since the program was established in 1970, virtually every major

racketeering prosecution has benefited from the testimony of one or more protected witnesses. The US program has facilitated major defections from La Cosa Nostra (Jacobs and Gouldin, 1999). Until the 1980s, the only major OC figure who had broken the code of omerta was Joe Valachi. In the late 1980s and early 1990s, a number of mob figures facing the possibility of lengthy prison terms testified for the government in exchange for concessions in the charges against them and admission into the Witness Security Program.

Jacobs and Gouldin (1999:168) provide a list of high-profile mob figures who "flipped" and entered the program. These individuals helped the government in its civil racketeering suit against the Teamsters Union, and provided testimony in the "Commission", "Pizza Connection", and other prominent cases. In one of the most notorious cases, Gambino family underboss Salvatore Gravano testified against powerful John Gotti, head of that crime family. Kenney and Finckenauer (1995:333) assert that Gotti's conviction might not have occurred without Gravano's testimony and that, "There is no doubt that his [Gravano's] cooperation would not have been secured except under a guarantee that he and his family would be protected from retaliation by Gotti and his followers."

Kelly, Schatzberg, and Chin (1994:500) report that the record of the United States' Witness Protection program is impressive. They note that protected witnesses have helped convict over 89 percent of the defendants against whom they testified.

A 1984 study by the United States' General Accounting Office revealed a 75 percent conviction rate in cases involving the testimony of a protected witness (Albanese, 1996). The majority, but not all, of the defendants were OC figures. The GAO found that, in OC cases involving protected witnesses, twice as many defendants received prison sentences than in other OC cases. Eighty-eight percent of those designated as bosses or ring leaders were sent to prison, for a median time of 11.2 years. The GAO further found that just over 21 percent of witnesses admitted into the US program were arrested within the next two years. This figure may be modest in light of the fact that the typical protected witness has over seven arrests prior to their entry into the program. In addition, supervision by the US Marshal's Service may increase the likelihood of detection for criminal activity (Giuliani, 1986:116).

Albanese (1996:195) notes that the significant OC prosecutions resulting from the program must be weighed against the $25 million cost, the arrest rate of protected witnesses, and the occasional lawsuit filed against the government due to the criminal actions of a witness. He points out that the high cost of the program has brought increasing attention to easing witnesses out of the program, although this poses a challenge in the case of older individuals and those who have never held a legitimate job.

Overall, it is difficult to determine the extent to which the increased testimony by OC insiders in the last two decades was due to witness protection, as opposed to the reduction of charges, immunity, and the erosion of adherence to codes of secrecy by the more recent generation of OC figures.

In Canada, until 1995, witness protection programs were run by several police forces, including the RCMP (Ha, 1995). In 1995, the government tabled a bill to establish a national program.

This review did not uncover any evaluation of any of these programs. Beare (1996:194) states that the current version of the program is under-funded and lacks "the infrastructure of training, support services, and policies needed to support the Canada-wide operation." For example, Canada lacks the facilities to house informers who are incarcerated, especially at the provincial level and in the case of women.

The RCMP's program costs over $3 million and protects 80-100 witnesses at any one time. About half of these witnesses have provided testimony in relation to OC cases. As with the American program, a number of lawsuits have been filed against the RCMP for allegedly failing to provide adequate protection for witnesses and their families, and for failing to provide new identities (Ha, 1995).

The United Kingdom, too, has no national witness protection program; however, an increasing number of police forces have established specialized units to protect witnesses (Fyfe and McKay, 2000). Witness relocation tends to be an option for just those witnesses facing the highest level of danger. An evaluation of the Strathclyde program in Scotland revealed that the average cost per case was considerably lower than other British programs-$6,000 as opposed to $20,000-$100,000. This difference was attributed to variations in the length of time witnesses spend in temporary accommodations, variations in benefits, and the more expeditious processing of cases in Scotland.

Police officers, prosecutors, and defence advocates tended to agree that such programs are invaluable, especially in certain types of cases (e.g., drug-related), where the presence of forensic evidence means that witness intimidation is one of the few avenues available to the accused and co-defendants to weaken the prosecution's case (Fyfe and McKay, 2000:289). Prosecutors noted that, without such programs, witnesses had often chosen to accept the penalties of not testifying rather than risk serious injury.

These professionals noted some concerns with these programs (Fyfe and McKay, 2000). One concern was that some witnesses, wishing to be relocated, would falsely claim that they were being threatened. Another concern was that relocation would not work, as protected witnesses would eventually return to their home area. Defence counsel were apprehensive about the prejudicial effect on the image of defendants of indicating in court that the witness had entered a witness protection program.

Witnesses interviewed in the Strathclyde study reported facing such incidents as having their house gas-bombed, having a shotgun to their head, being run over by a car, and receiving threats to their children. While many were relieved to learn about the possibility of being relocated, they were anxious about the impending loss of contact with family and friends. At this stage, some witnesses decide against relocation, while others feel they have no option. Generally, witnesses who were relocated felt more secure, but continued to experience anxieties and anger. The protected witnesses who testified in court (some were not compelled to give evidence due to changes of plea) had praise for their treatment. They were escorted to and from court and sat in separate waiting rooms from the other attendees.

Giving their evidence was a stressful event, as friends of the accused made intimidating gestures. Also, many of these witnesses faced aggressive questioning by defence counsel. Often, their motives were questioned and the suggestion was made that they were being rewarded for their testimony by being relocated. Many left court feeling angry and confused.

The majority (10 of 14) of the cases in which the interviewed witnesses testified resulted in a conviction. In the long term, anxieties about personal security persisted, especially following the release of the person against whom the witness testified. Over time, as well, many witnesses report becoming increasingly isolated from family and disenchanted with their new life. They note the importance of long-term psychological support.

4.8 Anonymous Juries

Safety issues are a concern for other courtroom actors; i.e., prosecutors, judges, and jurors. Prosecutors and judges have been protected by bodyguards and have even been temporarily relocated during OC trials (Giuliani, 1986:116). Jurors, too, have faced threats and harassment, as well as been on the receiving end of corrupt offers. Various jurisdictions in the US allow for the empanelment of anonymous juries. In such cases, prospective jurors are ordered to withhold all personal information which would reveal the juror's identity.

Successful applications for an anonymous jury have been supported by sworn statements detailing the violent nature of the crimes alleged, the defendant's history of violence, specific threats or corruption by the defendants involving courtroom actors, and the anticipated publicity surrounding the case (Giuliani, 1986:117).

Objections to anonymous juries have been two-fold:

1. The failure to disclose the names and addresses of jurors deprives the defence of information necessary to mount a successful challenge; and,
2. The empanelment of an anonymous jury undermines the presumption of innocence by suggesting that the defendants are dangerous and are likely to intimidate jurors or offer bribes to them.

In addressing the first objection, Giuliani (1986:117) argues that a defendant has no inherent right to information about the name, address, or place of employment of a prospective juror. Such information is not critical to launching intelligent challenges. Individuals can indicate their area of residence and their occupation and still reveal information about their socioeconomic status without providing an address and place of employment. In addition, judges can screen prospective jurors for possible bias.

With regard to the second concern, that an anonymous jury undermines the presumption of innocence, Giuliani argues that instructions by the court explaining that anonymity is designed to prevent interference by outsiders should be sufficient. Also, the courts have consistently upheld orders protecting the anonymity of witnesses and have therefore not deemed that such orders would deprive the defendant of a fair trial. In fact, those serving on a jury in an OC trial and

who are afraid because they have not been protected by anonymity may demonstrate more bias in their judgment.

This review has not uncovered any empirical evidence comparing the decisions rendered by anonymous versus other juries in similar OC cases. A study could evaluate whether jury anonymity affects conviction rates or increases the likelihood of successful appeals.

4.9 Witness Immunity

In the United States' federal system and in many states, the court or prosecutor may grant immunity to reluctant witnesses in exchange for their testimony (Abadinsky, 2003). There are two types of immunity:

1. Transactional immunity, which provides blanket protection from prosecution for crimes about which an individual is required to testify; and
2. Use immunity, which prohibits the use of information provided by a person from being used against that person.

There are risks to granting immunity. As these witnesses will usually be hostile, their examiners cannot be sure in advance of the precise value of the withheld testimony (King, 1963). Also, prior to the testimony, there is no way of knowing what crimes are likely to be exonerated. Furthermore, under transactional immunity, there are risks of granting an "immunity bath", whereby a witness mentions a wide range of crimes he has engaged in knowing that he is immunized from prosecution for any crime he refers to while under oath (Kenney and Finckenauer, 1995:328). Moreover, there may be a perception that immunized testimony is unreliable, because it has been purchased (Rhodes, 1984: 192). Immunity has also been criticized on the grounds that it may be granted by prosecutors as a mere "fishing expedition" to obtain information without any specific suspects or crimes in mind (Albanese, 1996: 192). In addition, immunized witnesses can still have independently derived evidence used against them and are not immune from civil suits initiated by injured parties.

On the positive side, grants of immunity are said to have a favourable impact on a jury, as the testimony is viewed as more credible. The witness, after all, has little reason to lie and faces perjury proceedings if he does. Perjury proceedings are very rare, however, as they occur just once in every 10,000 grants of immunity (President's Commission on Organized Crime, 1986).

Overall, Rhodes (1984) asserts that the prosecutor's power to grant immunity is vital in dealing with OC. In prosecuting low-visibility conspiratorial crimes, he argues that there are few alternatives to obtaining the testimony of one of the conspirators. One illustration of the value of information obtained from informants is the case of Tommaso Buscetta, formerly a member of the Sicilian Mafia. His testimony in Palermo, Sicily and New York City helped convict close to five hundred members of the Sicilian and New York La Cosa Nostra (Kenney and Finckenauer, 1995).

In Canada, there are no statutory provisions for granting a person total immunity from prosecution. A prosecutor does have the discretionary power to refrain from laying charges in return for an undertaking to provide testimony. The Law Reform Commission of Canada discourages this practice, taking the view that this informal system of granting immunity is invisible and lacking in accountability (cited in Beare, 1996). On the other hand, the Quebec Police Commission (1976:211), in its report on OC, found it lamentable that such agreements have been regarded in Canada as misuses of discretionary power. The Commission took the view that, "…the decision not to lay charges against a suspect, when his collaboration is indispensable for the prosecution of other individuals of a higher rank than himself in the organized crime hierarchy, represents a wise use of power which is entirely compatible with the higher interests of justice."

In summary, there are cogent arguments for and against the granting of immunity. However, this review did not find one shred of empirical evidence attesting to the utility of immunity. This observation is corroborated by Albanese (1996:193):

> Unfortunately, no objective empirical evidence has been gathered to provide an indication of the relative costs (in terms of unprosecuted crimes and abuses of immunity) versus the benefits (convictions of upper-echelon organized crime figures). When such information is assembled, a more reliable judgment can be made of how witness immunity can be best used to balance the interests of the public and the interests of the witness.

4.10 Investigative Grand Juries

In the United States' federal system and in about half the states, a grand jury determines whether sufficient evidence exists to issue an indictment. The grand jury comprises a group of citizens drawn from the voting rolls. Aside from these probable cause determinations, the grand jury may be used for investigative purposes as well. When so used, it has broad investigative authority, including the power to subpoena persons and documents (Abadinsky, 2003: 349). In the federal system and in those states where statutes permit, the grand jury is used to investigate corruption in government and law enforcement, as well as the activities of OC. They function much like citizen commissions, with the added benefit that they can prosecute cases they discover (Albanese, 1996: 197).

The Organized Crime Control Act of 1970, enacted in the United States, requires the convening of a special grand jury at least every 18 months in federal judicial districts with a population in excess of one million. The life of these grand juries can extend to 36 months, allowing for the investigation of complex OC cases. The special grand juries hold secret proceedings during which the prosecutor presents evidence to establish probable cause for indictment. In some jurisdictions, such grand juries have the power to publish reports at the completion of their terms (Albanese, 1996:196). While governments are not required to act on these reports, the publicity associated with their release encourages action.

Stewart (1980:124) refers to the investigative grand jury as:

> the single most useful tool by which to attack the traditional forms of organized crime…If the witness testifies truthfully, that witness will be ostracized from the criminal community and thereby neutralized as an organized crime operative…Whenever any appreciable number of lower-level offenders are summoned before an investigative grand jury, the higher-ups in the organized crime structure can never be sure what, if anything, is being said. This alone is sufficient to generate tensions within the organized crime structure.

On the negative side, some prosecutors have used the grand jury to harass those viewed as political undesirables. This happened, for example, to antiwar activists in the 1970s (Kenney and Finckenauer, 1995).

The merits of investigative grand juries is a matter of conjecture as the evidence thus far advanced is anecdotal. Albanese (1996:196) asserts that: "Unfortunately, there has been no objective evaluation of the benefits (in terms of multi-jurisdictional organized crime prosecutions) versus the costs (in terms of harassment, unwarranted privacy invasions, and Fifth Amendment issues) of investigative grand juries."

4.11 Citizens' Commissions, Police Commissions, and Community-Based Initiatives

Citizens' commissions have been established periodically in the US to deal with crime-related issues. Among the most productive have been the Chicago and Pennsylvania crime commissions. These investigative commissions have been helpful in the investigation of OC. Prosecutors report that information and intelligence received from crime commissions have been useful in identifying areas for further investigation and in developing cases for prosecution (Albanese, 1996:182).

Rogovin and Martens (1994: 389-90) indicate that crime commissions can be:

1. Publicly funded, where investigators have police status but no arrest powers and usually no prosecutorial authority (e.g., Pennsylvania Crime Commission);

2. Privately funded with no policing authority (e.g., Chicago Crime Commission);

3. Government-sponsored, temporary, and designed to investigate a specific incident or phenomenon (e.g., President's Commission on Organized Crime, Quebec Police Commission, Knapp Commission on police corruption).

Albanese (1996) notes that aside from their contribution in investigating OC, these commissions focus the public's attention on the issue through their hearings, reports, and publicity. It has also been found that witnesses are more likely to disclose their knowledge to these commissions because their main task is to collect information, rather than build specific cases. In addition,

because crime commissions are not designed to develop specific cases, they can take a long-term approach and examine trends and assess the longer effects of developments in OC.

Crime commissions have the power to subpoena witnesses and to hold public hearings. Such hearings serve as a forum to present their findings and to mobilize public opinion in order to encourage institutional responses. In addition, unlike traditional law enforcement agencies, crime commissions are given immunity through their enabling legislation and, hence, can operate without the fear of lawsuits initiated by aggrieved witnesses (Rogovin and Martens, 1994:392).

Because they are mandated to expose crime rather than prosecute individuals, crime commissions, such as those found in several American states, do not need to support their conclusions by proof beyond reasonable doubt. The Pennsylvania Crime Commission, for example, adopts the civil law standard of clear and convincing evidence. Operating with a lesser standard of proof makes it easier to expose OC conditions and individuals, yet protects against the cavalier condemnation of persons that even a lesser standard might permit (Rogovin and Martens, 1994).

Crime commissions may possess other powers not available to traditional law enforcement agencies. For example, the New Jersey Commission of Investigation can incarcerate an immunized witness for refusing to testify. Incarceration then continues until the witness agrees to testify. Some major OC figures were incarcerated for substantial periods for refusing to testify. The late Angelo Bruno, for example, a member of La Cosa Nostra, was imprisoned for two and a half years—the only period of incarceration he ever served (Rogovin and Martens, 1994:391).

The Pennsylvania Crime Commission's exposure of racketeering in the state's solid waste industry illustrates the value of such commissions (Rogovin and Martens, 1994:391). The commission gathered information and elicited testimony to show that out-of-state crime groups had invested in Pennsylvania waste corporations. The historic pattern of operation of these groups indicated that their entry in the waste industry would result in racketeering in Pennsylvania. The commission recommended regulations to prevent such activity from taking place and shared key information with federal authorities to facilitate criminal prosecutions and civil remedies. This type of application of commission powers provides a broader range of options than the criminal prosecutions provided for by traditional law enforcement.

The power of crime commissions to investigate OC on a systemic level and to facilitate institutional change is illustrated by the Pennsylvania Crime Commission's lengthy investigation of the influence of OC in the city of Chester (Rogovin and Martens, 1994:392). Through informants, electronic surveillance, and private hearings, the commission amassed a portrait of a city that was systematically plundered and literally owned by OC. The commission's work ultimately led to the first change in the partisan control of Chester's city government in a century, an unintended result of its fact-finding and public education role.

Another example of pervasive corruption was found by the Knapp Commission in its investigation of the New York City Police Department. The commission's investigation

revealed systematic and organized corruption, particularly in the department's vice divisions, where bribes were an accepted part of police life (Senna and Siegel, 1996: 338).

The Pennsylvania Crime Commission's 1980 Report details a substantial number of indictments and convictions that were based on information supplied by the Commission. The report notes, however, that despite the successes achieved by law enforcement agencies during the 1970s, OC flourished during that period (Pennsylvania Crime Commission, 1980:259).

The Chicago Crime Commission is the oldest, most active, and is considered the most respected citizens' crime commission in the US (Hoffman, 1987:83). It is privately-funded and its roll of donors includes some of America's most prominent businesses—Sears and Roebuck, Kraft, Amoco. The membership comprises nearly four hundred business leaders, many of whom donate their own expertise to the Commission's work. The Commission performs a "watchdog" role, monitoring the behaviour of public officials responsible for law enforcement.

The Chicago Commission has engaged in awareness-raising activities in relation to OC on an ongoing basis. Public enemies lists, biographical sketches of OC figures, and related information are continually released to the media and, hence, to the public. The Commission has also lobbied in favour of various bills designed to combat OC (Hoffman, 1987:90).

One of the Chicago Commission's most innovative programs is the "Business Advisory Name Check Service." This service is designed to provide information to legitimate businesses concerning any criminal connections of a loan applicant, potential employee, client, vendor, or business. Each year, the Commission receives between 3,000 to 5,000 requests for information; however, the majority of these requests come from law enforcement and investigative agencies. Many of the requests also originate from out of state. In 1985, the Commission began to cut back this service due to a lack of resources necessary to comply with federal rules regarding reference checks (Hoffman, 1987:94). For example, the Commission faced a $3 million libel suit initiated by a Chicago man for alleged defamatory statements contained in literature it published. While the name check service may reduce the infiltration of OC in legitimate business, Hoffman (1987) notes that such infiltration is a relatively minor and declining problem.

The Quebec Police Commission (1976), in its inquiry into OC, also seemed to make a positive contribution, although much of the evidence of its impact is anecdotal and advanced by the Commission itself. Charges were brought against a number of OC figures following the public hearings. The Commission claimed that citizens became better informed about OC; in fact, a public survey undertaken on its behalf suggested that the population had learned from the hearings (Quebec Police Commission, 1976:315). The Commission claimed that informing citizens was empowering, leading them to resist submitting to fear and intimidation. There was more evidence, according to the police, of cooperation with the authorities, an indication of greater confidence in the justice system. The Commission also claimed that many gangsters kept a lower profile and even left the province or country to avoid testifying before it. Such inactivity or exile was said to disrupt activities associated with OC.

A downside of government-sponsored commissions is that they can be dissolved by the government. Political interference seemed to be at the root of the dissolution of the Pennsylvania

Crime Commission in 1994, after this body issued a report linking the State Attorney General to illegal video poker vendors (Albanese, 1996:183). Such commissions are bipartisan in composition and, hence, intended to be politically neutral.

Critics of crime commissions have also expressed the concern that civil liberties can be violated because traditional rules of evidence do not apply and because public commissions are immune from libel or defamation. Crime commissions can become ideological battle fields for those bent on destroying an opponent's reputation. Rogovin and Martens (1994:399) assert that while these concerns are legitimate, the benefits of these commissions justify the risks inherent in pursuing the delicate balance between the rights of citizens and the prevention of OC.

This review found no objective, empirical study of the impact of commissions. Hoffman (1987:83) adds that, "No systematic study has ever been conducted on private sector efforts directed against organized crime. And previous studies of citizen participation in crime prevention…failed to examine either the role of the economic elite or citizens' crime commissions in efforts directed against organized crime."

While some evidence shows that commissions have produced convictions and even the disruption of certain OC activities in certain localities, such accomplishments need to be directly linked to Commission activities. In addition, convictions alone are not an indication of a diminution of OC activities and the disruption of the activities of a group may be temporary. Furthermore, the curtailment of the activities of one group may lead to the emergence of others. A systematic assessment of the effects of a commission's activities would entail the careful selection of outcome measures, along with a comparison of OC before and after the work of a commission or the comparison of jurisdictions with an active commission to similar jurisdictions lacking such a commission.

As for grassroots efforts to combat OC, the review found no systematic evaluations of such initiatives. An example of this type of initiative was the mobilization against arson on the part of residents of various Boston neighbourhoods in the early 1980s (Brady, 1982). The urban fiscal crisis at that time contributed to the deterioration of both residential and commercial housing. Arson for profit escalated in eastern US cities as a means of financing the renovation or conversion of buildings. Both criminal organizations and legitimate businesses played a role in this activity. Community action took the form of the resident occupation of various fire departments that were slated for closing. Brady's study contains no discussion of the impact of the community mobilization in Boston on the arson problem. He speculates that, to achieve success, arson-for-profit ought to be tackled through fundamental change in an economic system that provides incentives for such activity, rather than punitive measures focusing solely on those igniting the buildings.

4.12 Strike Forces and Task Forces

In 1966, the first US "Organized Crime Strike Force" was established in Buffalo, New York (General Accounting Office, 1989). This strike force brought together a team of attorneys and agents from various federal investigative agencies, operating under the Organized Crime and Racketeering Section of the US Department of Justice. The aim was to mount a coordinated

attack upon local OC by identifying the power structure of the local OC family, targeting key individuals within the organization, and initiating prosecutions that were most likely to seriously disrupt its operations. The Buffalo Strike Force operated until the end of 1968 and brought indictments against more than 30 individuals involved in OC (General Accounting Office, 1989:8).

Because of the apparent success of the Buffalo Strike Force, these forces were established throughout the US. As of February 1989, there were 14 such strike forces. The strike forces concentrated their efforts on La Cosa Nostra and succeeded in convicting high-level OC figures in Boston, Chicago, New York, Milwaukee, and Cleveland (General Accounting Office, 1989:14). Many of these individuals received lengthy prison sentences. However, no information is available from the 1989 audit as to the number of indictments or convictions achieved. An earlier audit revealed that strike forces convictions, including those of high-echelon figures, often yielded non-custodial or short prison sentences (General Accounting Office, 1977:24-27). However, no comparison is provided in terms of the conviction rates or sentences imposed for comparable cases prosecuted by offices other than the strike forces.

The General Accounting Office (1989:27; 1977:17) lamented the fact that no overall measures of effectiveness were established for the strike forces. Notwithstanding the lack of an evaluation strategy, the GAO (1977:7), in its 1977 audit, declared the strike forces unsuccessful because there had been no coordinated national effort to fight OC. Rather, " Federal efforts against organized crime are more the result of individual decisions made at the local level than the result of a national strategy, as originally envisioned…In practice, each participating agency fights organized crime as it sees fit" (General Accounting Office, 1977:7). Variations in the definition of OC and the lack of agreed-upon aims were seen by the GAO as contributing to this failure.

In addition, jurisdictional disputes arose between the strike forces and US Attorney's Offices (General Accounting Office, 1989:21). US Attorneys are the chief federal prosecutors in the judicial districts and they, too, prosecute OC cases in the same regions covered by the strike forces. The conflicts and coordination problems led to the call by an advisory committee to phase out the strike forces and to integrate them within the US Attorneys' Offices as early as 1974. The strike forces were ultimately disbanded in 1989 as independent entities and were, in fact, merged into US Attorneys' Offices. As a result, many experienced strike force prosecutors resigned from the US Justice Department (Jacobs and Gouldin, 1999:160).

Organized Crime Drug Enforcement Task Forces, headed by US attorneys, were established in 1983 to identify, investigate, and prosecute high-level drug traffickers (General Accounting Office, 1989). Their aim was to eliminate high-level drug operations through the coordination of federal resources. As of 1989, there were 13 drug task forces in the US and participating agencies included US attorney offices, Drug Enforcement Administration, FBI, US Customs Service, US Marshals Service, Bureau of Alcohol, Tobacco, and Firearms, Internal Revenue Service, the Coast Guard, and state and local law enforcement agencies. Housed in US Attorneys' Offices, assistant US attorneys work with the initiating law enforcement agency in establishing electronic surveillance, engaging in undercover operations, using investigative grand juries, administering asset forfeitures, and performing other activities usually required in complex drug investigations (Lyman and Potter, 1997:430-431).

In the first two and one-half years, the task forces produced 1,721 indictments against 6,545 defendants, the majority through plea agreements (President's Commission on Organized Crime, 1986:319; General Accounting Office, 1987:13). The conviction rate is about 95 percent in cases reaching disposition and assets seized approach the cost of the program. In its first two years, assets seized totaled US$158 million and forfeitures totaled US$52 million (General Accounting Office, 1987:9). In addition, close to US$10 million in fines were assessed during the first two years of the program. The task forces have also enhanced international cooperation among law enforcement agencies as nearly half the cases target organizations that are international in scope.

In Canada, the Organized Crime Agency of British Columbia (2001/2002) operates like the American task forces. Established in 1999, it has developed close working relationships with many Canadian law enforcement agencies, as well as the Canada Customs and Revenue Agency, the FBI, and the US Drug Enforcement Agency, among others. On average, projects include eight to nine partners. While no independent assessment as to the outcome of OCABC operations have been conducted, its 2001/2002 Annual Report claims that it has caused "disruption and suppression of organized crime group activities such as geographic displacement, friction and mistrust among crime groups and disruption of drug distribution networks" (OCABC, 2001/2002:14). In addition, one case led to the confiscation of $6 million in assets.

4.13 Undercover Operations and Informants

Undercover work may involve one or more of: ***informants***, who are usually suspects who have "flipped" and are exchanging information for consideration in terms of charges or at sentencing; ***paid agents***, who are insiders receiving cash for information; or, ***undercover*** officers, who are police officers trying to infiltrate criminal organizations or obtain information about their operations (Beare, 1996:189).

Proceeds of crime and money laundering investigations, for example, often require sophisticated undercover work involving the establishment of elaborate storefront money laundering operations. These storefronts are staffed by individuals knowledgeable about financial transactions and laundering. The goal of such operations is to gain the confidence of the criminal organization toward the end of learning more about its personnel and operations. Sting operations of this type sometimes produce many convictions, but may be costly, involving many officers over a considerable period of time (Albanese, 1996:181).

Undercover work is dangerous—the danger appears to increase in proportion to the severity of sentences targets of such operations stand to serve—and open to manipulation (Beare, 1996:190-191). For example, informers might provide false information in order to receive payments or to punish competitors or enemies (Marx, 1988:152). Other informers may become overzealous "supercops" and create criminals, using prohibited methods. Because of their protected status, the information they provide and techniques they use to gather information are rarely challenged. Marx (1988:153) points out that informers are often unchallenged because they rarely appear in court. These court appearances are rare because "the information they provide is used to obtain a warrant or they are "cut away" after providing an introduction for a sworn agent."

On the corrupting influence of undercover work, Marx (1988) notes that intimidation, entrapment, and duplicity are fairly common features of such work. It is not uncommon for officers to cross the line from creating opportunities for and observing criminal acts to inducing and tricking people to engage in those acts or even, on occasion, planting evidence. Aggressive undercover work that crosses this line is often prompted by incentives within a police department to "get the numbers up."

Also, undercover officers handling illicit proceeds of crime in the form of cash may succumb to temptation. They may also accept bribes in return for their tolerance of illicit transactions. Furthermore, they may develop sympathies for and be co-opted by targets, leading them to protect rather than vigorously investigate them (Marx, 1988:160).

Another concern is that undercover officers tend to be less experienced investigators and their supervision in the field may be insufficient (Brown, 1985; Miller, 1987). These agents may be exposed to great danger without adequate briefing or preparation. Undercover work can adversely affect third parties when officers facilitate and even encourage the commission of crimes as part of a sting operation (Marx, 1988). Undercover operations may compromise the privacy of investigation targets or third parties. One example involves the cultivation of a romantic relationship between an officer and spouse/lover of a target for the purpose of generating information relating to an investigation.

In recent years, several undercover agents have yielded numerous convictions. The best know agent is Joe Pistone, who worked undercover for six years as "Donnie Brasco" inside the Bonanno crime family in New York. His work led to more than 100 convictions of OC figures (Albanese, 1996:181). This infiltration was undoubtedly a blow to morale in La Cosa Nostra, raising concerns about secrets that had been revealed and questions as to whether other members were government agents (Jacobs and Gouldin, 1999:165).

An example of a successful Canadian undercover operation was that initiated by the RCMP and targeted currency-exchange houses (Beare, 1996:121). RCMP officers, posing as drug traffickers, exchanged amounts of cash that were so large they could have qualified as suspicious transactions and surpassed the $10,000 amount currently requiring the filing of a report to FINTRAC by financial institutions and specified individuals. Police exchanged a total of $3 million, including single transactions involving sums of up to $70,000. As a result of this operation, 190 criminal charges were anticipated against 36 corporations and 65 individuals.

Despite such indications of success, undercover work has not been the subject of more systematic, cost-benefit analyses that consider its far-reaching consequences. Miller (1987) notes that, "There is little information about how effective undercover investigations are, what they cost (economically, psychologically, or constitutionally), or why they fail. Similarly, the extent to which police departments use the strategy is unknown."

Albanese (1996:181) adds:

> The adjustment problems of undercover officers after completing their assignment has also not received enough attention from either police agencies or the public. The FBI claims that its undercover agents were responsible for 680 convictions, $5.7 million in forfeitures, and $741.1 million in potential economic losses prevented in a single year. Although these figures were modified somewhat by a General Accounting Office audit, the benefits of undercover work have not yet been objectively evaluated against their costs in terms of time invested, risk, manpower, and their impact on the officer, the police agency, and on affected third parties.

Albanese points out that agent Joe Pistone and his family had to relocate four times while he was testifying, that he did not see his family for three months while undercover, and that he resigned from the FBI prior to earning a pension because of threats against him. Pistone believes there is a large contract out on his life and he feels hunted by those he once investigated.

Marx (1988:113) lists the outcomes for a number of police sting operations set up to ensnare those involved in property crimes. While the tally of arrests and convictions seem impressive, these studies provide little comparison with other investigative methods and provide little information on the overall impact of these operations on crime in the relevant jurisdictions. Where such information was available, no impact on crime was observed. In any event, this evaluation did not pertain to undercover work in relation to large-scale criminal enterprises.

Ultimately, the value of information obtained through various undercover operations may defy quantification. Kenney and Finckenauer (1995:332) note that, "there is no obvious way to measure the worth of an informant's information against the costs of that information and the risks of unreliability and lack of credibility. This remains an exercise of professional judgment and discretion."

4.14 Electronic Surveillance

Electronic surveillance includes a number of techniques, varying in the extent to which they invade the privacy of the target. Some techniques are non-consensual, as none of the parties are aware that they are being monitored. Other techniques adopt one-party consensual monitoring, such as those in which undercover agents use a concealed tape recorder to record conversations or where one party to a telephone conversation consents to the recording of that conversation unbeknownst to the other party (Kenney and Finckenauer, 1995:337). Apart from tape recording and intercepting communications over a telephone line (or wiretapping), electronic surveillance may involve video recordings, eavesdropping through the use of hidden microphones (bugging), and more advanced laser and fiber optics technologies (Abadinsky, 2003:344).

Many law enforcement officials believe that the use of electronic surveillance is indispensable in the fight against OC because other sources of evidence are often unreliable or unavailable. Witnesses are often afraid to come forward, informants may be unreliable, and many criminal organizations are difficult to infiltrate. Furthermore, as the business of OC is usually conducted

over the telephone and in meetings, there is a minimum of written communications that can be used to construct a paper trail of criminal transactions (Kenney and Finckenauer, 1995:337).

Despite the value of electronic surveillance, it constitutes a considerable invasion of privacy and hence must be governed by strict regulations in non-totalitarian societies. The extensive surveillance of civil rights leader Martin Luther King, Jr., in the 1960s, is just one example of the potential abuse of this investigative tool for political or other ends (Krajick, 1983:30).

Aside from concerns about the civil liberties of targets, the use of electronic surveillance is limited by its prohibitive cost. In the US, the cost per tap has risen from an average of $5,524 in 1970 to $46,492 in 1992 (Albanese, 1996:177). This elevated cost is partly due to regulations in the US that require the presence of a police officer who must listen to the beginning of each conversation and turn off the recorder, if the conversation is not related to the eavesdropping warrant. Also, tapes must be transcribed, conversations analyzed, and leads provided by the intercept must be followed-up through physical surveillance and other means. Furthermore, material from electronic intercepts often must be enhanced by specialists to reduce background noise (Abadinsky, 2003:347).

There are other practical problems associated with surveillance, as well as problems in interpreting material that has been intercepted. Schlegel (1988) points out that the planning of conspiratorial acts takes a considerable amount of time and often occurs in a variety of locations, thereby undermining the utility of electronic eavesdropping. There are also problems in interpreting conversations (e.g., a “hit” can refer to a murder or robbery) and in the validity of what people are overheard to say, as they may be lying or bragging.

In the US, the use of court-authorized electronic surveillance has grown measurably from 1970 to the 1990s (Albanese, 1996:175). Telephone taps have been the most popular means of surveillance, although interceptions of electronic communications have grown perceptibly since the late 1980s. The average length of surveillance operations has doubled from 19 to 38 days. Surveillance now is more likely to be used in drug and racketeering cases, but less often in gambling cases, reflecting the changing priorities of US law enforcement agencies (Albanese, 1996:176).

Albanese (1996:177) has found that three times as many conversations were intercepted in 1992 as in 1970, but that the percent of conversations containing incriminating information dropped from 45 percent to 19 percent during that same period. He interprets this finding to mean that crimes may be less conspiratorial and hence may produce fewer conversations that are crime-related. Or, alternatively, the cases selected for surveillance are becoming less appropriate. Another possibility is that there may be a saturation point beyond which surveillance is no longer useful in investigations. It may also be the case that members of criminal organizations are more aware that their communications may be intercepted by law enforcement are therefore more prudent with their communications.

The analysis conducted by Albanese indicates that the number of arrests and convictions arising from electronic surveillance in the US has increased from 1970 to 1992, although the number of arrests and convictions per tap has remained fairly stable. The National Wiretap Commission, a

blue ribbon panel funded by Congress to examine police eavesdropping, stated that even though surveillance "has resulted in the conviction of a very small number of upper echelon organized crime figures" it was "generally unproductive" in terms of cost, manpower, and convictions (Albanese, 1996:178).

Many significant convictions achieved with the help of surveillance since that assessment in the 1970s, such as that of Gambino family boss John Gotti on racketeering and murder charges, might change that conclusion. Also, the experience in the State of New Jersey is worth considering. In 1969, the state's legislature authorized electronic surveillance following revelations that mobsters had infiltrated the highest reaches of government and industry in the state (Krajick, 1983:31). A massive campaign of surveillance ensued for several years. The result was not only the incarceration of dozens of OC figures but the departure from the state of 40-50 high-level offenders. What is unknown is whether the incarcerated and the departed reconstituted their illicit networks at a later point or merely relocated their activities.

Albanese (1996:178) notes that what is needed is an assessment of the cost-benefit of electronic surveillance as opposed to other investigative tools. He further notes that research is required to identify the types of cases, locations, and suspects in relation to whom it is most cost effective, as well as the investigative tools with which it works best.

In Canada, Part XI of the Criminal Code acknowledges the necessary use of lawful information intercepts in combating OC. However, this review did not uncover any assessments of the use or impact of such intercepts.

4.15 Intelligence Analysis

Intelligence involves the collection, evaluation, and interpretation of information. The aim of intelligence work is to increase understanding about an issue, as well as to assist in preventive efforts and policy development (Abadinsky, 2003: 341). Tactical intelligence serves the more immediate law enforcement objectives of arrest and prosecution, while strategic intelligence serves more long range aims (e.g., understanding new patterns of OC activity and the threats they pose).

The sources of intelligence data are varied: court data, business and financial records, newspapers and other publications, physical and electronic surveillance, and statements or testimony by informants, victims, accomplices, and law enforcement personnel (Abadinsky, 2003: 342; Peterson, 1994). The analysis of intelligence data is similar to hypothesis testing in science, whereby an analyst systematically weighs the evidence in support of a given belief (e.g., OC has infiltrated a given industry in a certain city). If the hypothesis or belief withstands rigorous testing, it becomes the basis for an intelligence report.

Sound FBI intelligence work, for example, laid the groundwork for the successful prosecution of many members of New York City's five Cosa Nostra families. Separate teams of FBI agents were responsible for describing each family's organizational structure—identifying all members and their status within the organization—and determining the industries and rackets in which the family was involved (Jacobs and Gouldin, 1999: 163). After documenting the family's

command structure and illicit activities, the FBI squads obtained eavesdropping orders which provided evidence that inculpated members and could be used as leverage to obtain their cooperation. Prosecutors used the evidence in an ongoing series of criminal and civil proceedings.

The Organized Crime Agency of British Columbia (2001/2002) has adopted an intelligence led enforcement model. This agency uses intelligence to identify key OC figures in order to disrupt their activities through prosecution and through the seizing of assets. Tactical intelligence is disseminated to law enforcement partners. Internal assessments, primarily using operational measures, have shown some positive outcomes. For example, considerable evidence has been shared with law enforcement agencies and OCABC officers have provided expert evidence to broaden the understanding of OC activities by the courts.

Many American law enforcement agencies, however, have still not incorporated intelligence and its analysis into their OC control efforts (Peterson, 1994: 360). There may be a reluctance to deviate from more traditional investigative methods and police management may experience difficulty in evaluating the results of intelligence analyses. However, it would be difficult to imagine a successfully completed OC investigation without at least some rudimentary analysis (Peterson, 1994:384).

The evaluation of intelligence work in general is in its early stages. Peterson (1994) notes that few agencies in the US have attempted to quantify their analytical efforts, let alone evaluated them. These efforts are often assessed by the number of intelligence products generated, rather than their value in achieving certain organizational ends.

4.16 Reducing the Supply of Illegal Goods and Services

One method of hampering the activities of OC groups is through interrupting or eradicating the supply of illicit goods and services. This approach has been referred to by Goldstock (1994) as "opportunity blocking". Often, but not always, supply reduction occurs in tandem with the arrest and prosecution of those involved in the smuggling and distribution of contraband. This section will focus on drug trafficking, which is arguably the area in which this approach has been adopted most widely.

The US President's Commission on Organized Crime (1986:477) referred to the interdiction of narcotics as "at best a random and occasional threat." It also found that source country crop eradiction would not succeed "unless it is comprehensive, long-term, and visibly supported by a national commitment" in the US to reduce demand.

Perhaps the best test of the potential of the law enforcement approach to dealing with the issue of illicit drugs was the "war on drugs" launched by President Reagan during the 1980s. His administration recruited an additional 1,000 agents for the Drug Enforcement Administration (DEA) and 200 new assistant US Attorneys. More stringent laws were introduced, 1,300 new beds were added to 11 federal prisons, and the military and Coast Guard was brought in to fight this war with assault helicopters, AWACS planes, satellites, and high-powered speedboats (Kenney and Finckenauer, 1995:193). The efforts could be branded a success from a narrow

perspective, as this aggressive law enforcement effort yielded unprecedented totals in terms of seizures, indictments, arrests, convictions, and asset forfeitures. In 1986 alone, nearly one-half billion dollars in assets were seized. Cocaine seizures increased from 2,000 kilos in 1981 to 36,000 in 1987. DEA arrests doubled and, by 1987, over 40 percent of all new prison inmates went in for drug offences (Kenney and Finckenauer, 1995:194).

While these apparent successes were being achieved, the price for the target drugs was dropping and purity increased significantly. The domestic cultivation of marijuana rose dramatically and the supply of cocaine more than tripled from 1980 to 1988, from 40 to 140 metric tons per year (Kenney and Finckenauer, 1995:194). The "wholesale" price of cocaine in Miami dropped by 90 percent from 1980 to 1986, an indication of a major glut in the market (Shannon, 1988:367). During the same period, cocaine-related hospital emergencies rose more than six-fold. Examining the evidence as a whole, the United States' Office of Technology Assessment (Kenney and Finckenauer, 1995:194) pronounced the aggressive supply-reduction effort a failure, noting that, "Despite a doubling of Federal expenditures on interdiction over the past five years, the quantity of drugs smuggled into the United States is greater than ever."

The picture, however, is not totally negative. The retail price of cocaine on the streets of American cities did increase from 1989 to 1990, indicating that enforcement efforts may have started to pay off in the 1990s (Lyman and Potter, 1991:261).

Returning to the 1980s, many American cities became battlegrounds for gangs fighting over markets and the new drug cartels came to exert considerable influence in several Latin American and Caribbean countries. The drug war and its consequences strained America's relations with several Latin American countries (Nadelmann, 1988). Moreover, the excesses of the zero tolerance approach were illustrated by the occasional large-scale asset forfeitures of vessels and vehicles carrying miniscule amounts of drugs (Kenney and Finckenauer, 1995:196). In one case, for example, a 52-foot vessel was impounded because of cocaine dust found on a rolled up dollar bill. In another case, an $80 million research vessel was seized after .01 ounce of marijuana was found in a crewman's shaving kit. Such examples led some observers to comment that the war on drugs had significantly diminished the civil liberties of Americans.

Another illustration of the limitations of interdiction strategies was seen in the early 1980s, following the establishment of the South Florida Task Force in 1982. This broad, anti-drug effort reduced trafficking to Florida; however, the increased law enforcement pressure resulted in the displacement of drug smuggling to Gulf of Mexico and Eastern ports of entry. The successes achieved by the Florida multi-agency approach thereby "exacerbated an already serious nationwide drug problem" (President's Commission on Organized Crime, 1986:289). Nevertheless, this approach served as the basis for the 12 regional Organized Crime Drug Enforcement Task Forces established in 1983.

While the President's Commission was supportive of the supply-reduction strategy and the targeting of high-level OC groups involved in drug trafficking, it expressed agreement with the concern that supply-reduction alone might be counterproductive in that it might strengthen more powerful criminal organizations. The Commission noted that such an approach might "exacerbate the nation's OC problem by enriching organized crime groups, eliminating their

competitors, and encouraging trafficking organizations to become organized crime groups…" (President's Commission on Organized Crime, 1986:388).

The President's Commission (1986:421-425) was also skeptical about crop reduction/substitution and eradication programs. Source countries may have little incentive to reduce crop production as this may undermine the economic and political stability of their countries. Also, drugs that are illicit in North America may be consumed in those countries (often as part of local traditions); hence, consumption is viewed as an American problem. Farmers in these countries may not have alternative crops that can provide the income generated by illicit drug crops. Furthermore, governments in many producing countries are weak and unable to control crop production. They may also be hostile to the US and hence unmotivated to curtail production.

Most importantly, perhaps, the list of source countries is not fixed; therefore, crop reductions in one country are often compensated for by increases in other countries. With regard to the last point, the successful eradication with herbicides of opium poppies grown in some parts of Northern Mexico during the 1970s reduced Mexican heroin production; however, within five years this reduction was replaced by heroin from Southeast Asia. The use of spraying has also been objected to on the basis that the herbicides and pesticides used are highly toxic (Del Omo, 1987).

Crop eradication efforts aimed at the coca crop in Bolivia and Peru, and the poppy crop along the Afghan-Pakistani border, have also met with dismal failure (Shannon, 1988:364-367; Atlas, 1988). Bolivia, for example, received economic aid from Washington and the United Nations Fund for Drug-Abuse Control to compensate farmers for the transition from coca to legal crops, in return for its agreement, in 1987, to eradicate all coca grown for export within three years. Various domestic pressures in Bolivia conspired to undermine this plan and, by the end of the first year, just 500 acres of coca had been eradicated by the government.

Notwithstanding these concerns, the President's Commission on Organized Crime (1986:425) did not rule out source country control programs. The Commission called for such programs to target countries and crops selectively, arguing that crop reduction could reduce the availability of illicit drugs on a temporary basis. It argued that these efforts should be pursued in those countries in which the political and economic climate was favourable to their successful application.

Overall, the Commission (1986:429) concluded that supply reduction has been of limited success and that the 75-year history of this approach in the US has "not reduced the social, economic, or crime problems related to drugs…America's war on drugs seems nowhere close to success. Now more than ever, drugs present problems of vast proportions."

As an indication of the limitations of the supply reduction strategy, the President's Commission (1986:429) considered an estimated 10 percent interdiction rate, achieved in 1983, to be a success. Even if this rate could be increased, Latin America's coca growing could be raised accordingly. Despite some high-profile drug seizures in South Florida in the 1980s, Customs agents can inspect just a small fraction of the seven million shipping containers landing each

year in the US (Shannon, 1988:410). In 1992, US Customs inspected just 13 percent of full shipping containers from cocaine source and transit countries (US General Accounting Office, 1994:5). Even if agents could inspect each container arriving by sea from South America, the traffickers could still move cocaine and other contraband via inland routes through Mexico. Inspecting each truck at the Mexican border would paralyze commerce, causing delays that would cause fruits and vegetables to rot. Two-thirds of all cocaine entering the US is brought across the US-Mexico land border concealed in cargo (US General Accounting Office, 1994:5). As for interdiction of the airborne drug traffic, just 5 percent of planes crossing into the southwestern US are intercepted (Shannon, 1988:419).

The United States' General Accounting Office (1994:1) has put it bluntly: "Despite various US government interdiction efforts, Central America continues to be a primary transshipment point for cocaine shipments to the United States. Available evidence suggests that the supply of drugs entering the United States via Central America remains virtually uninterrupted." The GAO report says that Central American countries tend to lack the resources and institutional capacity to address the new drug trafficking modes. Also, drug traffickers are adept at adjusting their routes, modes of transportation and concealment, and times of entry in response to interdiction efforts (Reuter, Crawford, and Cave, 1988).

The problems of interdiction notwithstanding, an econometric analysis commissioned by the US Customs Service (Godshaw, Koppel, and Pancoast, 1987) revealed that interdiction strategies are more cost effective than domestic anti-drug investigations, as they yield greater amounts of contraband seized. In 1986, a dollar spent on interdiction yielded over seven dollars (retail value) in cocaine and marijuana seizures, whereas a dollar spent on investigation yielded just over three dollars in seizures. Interdiction at the border has the additional advantage of lessening the social costs of drugs, as intercepted substances never generate the social and health-related problems associated with drug distribution and use. This study also found that a ten percent increase in law enforcement expenditures increases the cost of illicit drugs and thereby occasions a 4 percent drop in marijuana consumption and a 2.4 percent drop in cocaine consumption. While cost may be a factor in consumption levels, other studies indicate that consumption is unrelated to availability, thereby undermining the supply-reduction approach (Jonas, 1999:127).

Moore (1990:148) argues that frustrating illicit transactions through law enforcement efforts and immobilizing trafficking networks may be more useful supply-reduction strategies than interdiction. He asserts, however, that the existing approach is based on "bets and gambles" rather than hard evidence. Moore (1990:152) adds that "it is vital that capacities be improved for measuring not only the impact of the supply-reduction strategy but also its operations. Without such measurements that provide evidence about what works and what does not, there is no prospect for improving either our knowledge or our performance."

4.17 Increasing Regulation and Establishing Public Benefit Corporations

Increasing regulation and enforcement in various industries may make them less vulnerable to infiltration by OC groups. For example, OC has been described as entrenched in the waste hauling industries in the states of New York and New Jersey (Carter, 1996/97: 32). The introduction of environmental regulations dramatically increased the cost of waste disposal,

creating incentives for companies to do business with those who could provide this service at cut-rate prices. Criminal syndicates expanded their operations in the solid and hazardous waste hauling industries in response to the desire of corporations to externalize their responsibilities and minimize their costs in this area.

Historically, there has been a widespread reluctance, on the part of both regulators and the regulated, to treat environmental crime as crime. Criminal sanctions are generally viewed as a last resort. Voluntary compliance and civil or administrative sanctions have been the standard means of environmental crime control (Carter, 1996/97:28). Weak controls, however, have led to degradation of the environment and one study notes that inadequate sanctions probably increase rather than decrease OC activities (Reuter, 1987).

Carter's (1996/97) analysis of the waste hauling and disposal industries provides some lessons in terms of regulation. A balance must be struck between inadequate regulation and its unnecessary proliferation, as the latter might hinder industrial activity. Carter asserts that regulations need to be comprehensive, so as to avoid loopholes that might be exploited by unscrupulous operators. The State of New York, for example, has permitted the disposal of construction materials on the property owner's land without requiring a permit. OC groups took advantage of this situation by burying toxic waste along with construction debris, unbeknownst to property owners.

Carter adds that enforcers and regulators must be equipped with better tools to permanently revoke all permits, licenses, and other privileges to operate in an industry. Furthermore, he notes that penalties for deliberate violations of environmental laws should be increased and adequate resources must be available to enforcers.

Regulatory reform in a number of areas illustrates the promise of this approach. When Rudolph Giuliani, formerly a US attorney known for his vigorous prosecution of OC, became mayor of New York City, the city moved quickly to use its licensing power to remove corrupt unloading companies at the Fulton Fish Market (Jacobs and Gouldin, 1999:175). The Giuliani administration also used its regulatory authority and licensing powers to free the Feast of San Gennaro, one of New York's most famous street fairs, from the grip of OC. The Cosa Nostra-dominated organization that for many years had run and profited from the festival was replaced by an organization with no OC connections and by the Roman Catholic Archdiocese (Jacobs and Gouldin, 1999:175).

Under Giuliani, the New York City Council also created the Trade Waste Commission TWC) in order to remove OC's control over the waste hauling industry and to restore competition (Jacobs and Gouldin, 1999:175). The executive officers of this Commission included attorneys and police detectives with experience in OC investigations and prosecutions. The TWC was authorized to license carting companies and individuals with criminal records or known associations with OC or the mob-dominated cartel were denied licenses. The TWC also sought to strengthen the position of the customer by setting maximum rates, regulating contract duration, and by informing customers of their rights.

Jacobs and Gouldin (1999:176) are unequivocal about the achievements of this regulatory initiative in wresting control from OC in an industry that had been so tainted:

> The TWC has been remarkably successful. By driving corrupt firms from the industry and simultaneously protecting customers from exploitation, new companies (with no ties to organized crime) have entered the industry…For the first time in history, national waste-hauling companies have entered the New York City market. In addition, waste-hauling rates have fallen dramatically (recent estimates claim decreases of 30-40 percent in the past two years)…Thus New York's Cosa Nostra crime families have to contend with the loss of a significant revenue source and power base.

Another way of undercutting OC-dominated cartels, bid-rigging, and other anticompetitive practices is to establish public benefit corporations that disrupt illegal agreements by competing against those engaging in them (Goldstock,1994:436).

Whether the approach used is that of more regulation or the creation of public benefit corporations, the issue that remains to be answered by evaluators is whether the disruption of such cartels in an industry occasions a net loss for OC or whether crime syndicates re-emerge in other areas or industries. While the above-mentioned examples of increasing regulation show considerable promise, comprehensive evaluations must consider the potential adverse affects of additional regulation on an industry.

4.18 Legalization or Decriminalization of Certain Goods and Services

Rather than increasing regulation, the decriminalization of some goods and services provided by criminal networks might lessen the social demand that fuels OC. Products and services that are decriminalized may nevertheless be subject to regulation (Kenney and Finckenauer, 1995: 197).

For example, a number of arguments have been made for the decriminalization of the possession of various psychotropic drugs. The substantial expenditures associated with drug enforcement could be allocated elsewhere (e.g., for treatment) and the medical as well as social ills (including crime) associated with the illicit status of heroin and other substances could potentially be minimized. Drug enforcement is not only costly; it has also been shown to be limited in its ability to curtail supply (Lyman and Potter, 1991:325).

Also, it has been argued that the current approach drives up drug prices, thereby subsidizing rather than combating drug traffickers (Dennis, 1990). Prohibition in the US during the 1920s and 1930s transformed OC from small peddlers of vice into powerful crime syndicates with political connections, respectability that came from serving the public the alcohol they desired, and the organization to deliver contraband to large numbers of people (Lyman and Potter, 1991:323). Without the lucrative profits from drugs, criminal organizations might no longer be viable, although some evidence suggests that they might shift to other activities. In Colombia, for example, pressure against the drug cartels led some of their henchman to take up kidnapping for a living, thereby dramatically increasing the incidence of this crime (Abadinsky, 1994:512). Also, legalization in one country would have no bearing on the demand for illicit substances in

other countries (President's Commission on Organized Crime, 1986: 331). Thus, some of the major cartels would continue to operate.

The major downside of legalization is that consumption might increase with the greater acceptability and accessibility of various substances. Increasing consumption may be viewed as inherently undesirable and may create a variety of social, health, and economic costs (Abadinsky, 1994:512-513; President's Commission on Organized Crime, 1986:330-331). Also, there is no guarantee that legalization necessarily cuts into the profits of OC. For example, the proliferation of state-run lotteries in the US during the 1970s was said to produce no threat to the revenues of illegal gambling operators (Reuter, 1984). This may be the case because the level of gambling and other behaviours that have been subject to prohibition is not fixed. State-run operations may simply increase participation in such activities. Furthermore, the regulation and taxation of drug markets may prove to be an insurmountable challenge. For example, there are so many foreign and domestic sources of marijuana, that much of its production and distribution would remain beyond the reach of regulators (Lyman and Potter, 1991:324).

5.0 Summary and Conclusions

Much of the evidence pertaining to the efficacy of OC control strategies is descriptive and anecdotal. Studies adopting sophisticated research designs are virtually non-existent. In fact, very few studies are explicitly referred to by their authors as evaluative studies. The multi-stage process used to identify relevant research reflects the paucity of efforts, in the OC literature, assessing the implementation and impact of OC control strategies. The search for materials began with a search of several major electronic databases. The bibliographies of materials identified through this search were then scanned for additional documents that might contain some additional evidence. This process was repeated as bibliographies were once again examined to complete a third round in the search for relevant materials.

Several issues stand out as impediments to arriving at generalizations regarding the effectiveness of measures to control OC. A definitional morass exists, as both scholarly and legal definitions vary substantially in their scope. Some definitions emphasize the enterprise aspect of OC, while others relate to activities frequently attributed to criminal organizations. Another impediment to research and evaluation in this area is the fact that not one country routinely collects and publishes data on OC activity, however it is defined. Finally, a variety of measures have been used to gauge OC control efforts, hindering the ability to draw overall conclusions about the value of these efforts. Furthermore, many of these measures have serious shortcomings.

Notwithstanding these concerns, the evidence that does exist provides some clues as to the efficacy of the various approaches to controlling OC. Table 2 displays the 18 control measures or strategies that have been reviewed in this report. These measures range from regulation and legalization to tools available to prosecutors, law enforcement, and other public and private sector agencies.

The strategies are listed in the first column of the table. The second column contains an evaluation of the volume of evidence, both quantitative and qualitative, assessing the impact of each strategy or measure. The focus was on the volume rather than the quality of the evidence, as most of the evidence is descriptive in nature; hence there is little variation in the quality of studies. While the evaluation of the research is somewhat subjective, it is based on the evidence presented in the previous chapter. Furthermore, other scholars often provided their evaluations of the evidence in relation to the different control measures (refer to Chapter 4).

Three ratings of the evidence were adopted:

1. A “nil” rating was provided when there was virtually no evidence, other than the anecdotal, provided in relation to a measure;
2. A “limited” rating meant that just a small number of studies had been undertaken and the evidence was confined to just one country (usually the US);
3. A “significant” rating meant that the studies were quite numerous and were found in several countries.

TABLE 2
THE EFFECTIVENESS OF ORGANIZED CRIME CONTROL STRATEGIES

Strategy	Evidence	Benefits	Costs/Limitations/Side Effects	Overall Effectiveness
Prosecuting persons involved in OC	Limited	- many convictions under RICO - some crime families disrupted	- RICO too sweeping; cases long and complex	Moderate
Prosecuting OC kingpins	Limited	- many major figures convicted in US	- OC activities not reduced; groups adapt/restructure; often ignores most influential individual	Low
Prosecutions through the use of taxation laws	Limited	- useful in lieu of criminal prosecution (historically many US OC figures convicted this way)	- investigation can be costly; concerns about intrusions into the private dealings of citizens	Moderate
Measures to combat money laundering	Significant	- many recent convictions in US - a few large successful undercover operations	- currency transaction reports too numerous; rarely initiate investigations & often bypassed; many countries uncooperative	Low
Seizure and forfeiture of assets	Limited	- increasing amounts seized & confiscated; assets confiscated may exceed costs of proceedings	-third parties harmed; due process compromised; abuses of proceeds by enforcement agencies; issues in managing assets seized; complex cases; miniscule fraction of proceeds confiscated; costly & complex	Low
Injunctions, divestitures, trusteeships	Limited	- can dissolve or restructure tainted organization or remove certain individuals from contact with an organization	- none mentioned	Moderate-High
Witness protection programs	Significant	- afford good protection; facilitated prosecution of many OC figures	- costly; clients often career criminals who may commit new crimes; may disrupt family ties; interagency co-operation issues; witnesses may abuse or not comply; may compromise fair trial	Moderate-High
Anonymous juries	Nil	- afford protection to jurors	- thought to convey image of defendant as dangerous, thereby undermining presumption of innocence	Insufficient Data
Witness immunity	Nil	- can facilitate testimony of lower-level OC figures against higher-level figures; juries said to respond favourably as testimony viewed as more credible	- hard to determine value of testimony in advance; may be abused by witness; perception that immunized testimony unreliable	Insufficient Data
Investigative grand juries	Nil	- has broad investigative authority; investigates corruption in government and law enforcement; publicity encourages action on OC	- can be used to harass political undesirables; privacy concerns	Insufficient Data
Citizen's & police commissions & community-based efforts	Limited	- investigate OC with lesser standard of proof; sensitize & inform public about OC; broad & long term approach; some indication of OC disruption	- possible political interference; civil liberties concerns due to lower standard of proof	Insufficient Data

TABLE 2
THE EFFECTIVENESS OF ORGANIZED CRIME CONTROL STRATEGIES (CONT'D)

Strategy	Evidence	Benefits	Costs/Limitations/Side Effects	Overall Effectiveness
Strike and drug task forces (US)	Limited	- coordinated attack on OC; OC strike forces brought some indictments; drug task forces brought many indictments & seizures/forfeitures & targeted international organizations	- strike forces had juris-dictional disputes with US attorneys' offices & eventually were shut down	Moderate
Undercover operations and informants	Limited	- required in many proceeds of crime/laundering investigations; may produce many convictions & demoralize OC groups	- costly; dangerous; informers may be unreliable or overzealous; officers may be corrupted or co-opted; may harm their lives & third parties	Low-Moderate
Electronic surveillance	Limited	- viewed by some as indis-pensable due to unreliability & unavailability of other evidence; much OC business conducted over phone & in meetings; yielded some convictions of high-level figures	- major privacy concerns; very costly; planning of OC's activities may occur at several locations, interpretation issues	Moderate
Intelligence analysis	Limited	- laid groundwork for the disruption of Cosa Nostra families; involved to some extent in most OC investigations	- law enforcement resistance to and lack of expertise in this area	Insufficient Data
Reducing the supply of illegal goods & services	Significant	- US drug war yielded many seizures/forfeitures & convictions	- supply of drugs & overdoses largely unaffected by war; strained relations with source countries; domestic gang warfare; disproportionate penalties; stronger OC groups empowered; resistance to crop substitution & eradication; unlimited supply globally; groups adapt supply routes	Low
Increasing regulation and establishing public benefit corporations	Limited	- weak regulation may favour OC groups in controlling industries; removed OC influence from some sectors; reduces costs of services as cartels broken	- excessive regulation may hinder commerce	Moderate-High
Legalization of certain goods and services	Limited	- may lessen demand for services provided by OC; reduces law enforcement costs & social/economic costs related to illicit status	- OC groups may shift to other activities; consumption of affected good/service may increase along with its associated harms; OC groups may have larger markets; regulation & taxation difficult	Insufficient Data

The evidence was found to be significant in relation to just three measures—measures to combat money laundering, witness protection programs, and reducing the supply of illegal goods and services. A "limited" rating was provided in relation to the majority (12) of the measures. In the case of three measures—anonymous juries, witness immunity, and investigative grand juries—no evidence regarding their efficacy was uncovered, other than the anecdotal. Thus, it would seem that, according to the rating scheme employed herein, additional research is required in relation to 15 of 18 control strategies before more conclusive assertions can be made about their efficacy.

The third and fourth columns in the table indicate some of the most salient benefits and shortcomings of each OC control measure. The material contained in these columns is essentially a summary of the strengths and limitations of each measure as discussed in the previous chapter. These costs and benefits were considered in arriving at the overall effectiveness rating provided in the fifth column.

A number of ratings were provided of overall effectiveness:

1. An "insufficient data" designation is given where no evidence was found regarding the effectiveness of a measure or where the evidence was not sufficiently conclusive to provide a rating;
2. A "low" effectiveness rating is used where the shortcomings of an OC control strategy seem to considerably outweigh the benefits;
3. A "low-moderate" rating is used where a measure has more strengths than those rated "low" but where the costs still outweigh the benefits;
4. A "moderate" rating reflects a situation in which the strengths and limitations of a measure are fairly balanced;
5. A "moderate-high" rating is used where the strengths of a measure are considerable and where they outweigh the costs substantially; or, where there is significant evidence of the effectiveness of a measure even where the shortcomings may be fairly significant;
6. A "high" rating would be used where both the strengths outweigh the costs considerably and where the evidence of effectiveness is significant.

No rating was provided in relation to one-third (6) of the measures—anonymous juries, witness immunity, investigative grand juries, citizen's/ police commissions/community-based efforts, intelligence analysis, and legalization of illicit goods and services—due to a lack of or insufficient evidence.

A "low" effectiveness rating was provided in relation to four of the measures—prosecuting OC kingpins, measures to combat money laundering, seizure and forfeiture of assets, and reducing the supply of illegal goods and services. With regard to the first, prosecution of heads of criminal organizations, it was found that while the US, in particular, has "decapitated" many prominent groups (especially Cosa Nostra families), these groups have demonstrated considerable adaptability in maintaining their operations and there is little evidence that OC activities have been affected. As for the control of money laundering, there is strong evidence from a number of countries that, notwithstanding many recent convictions in the US, just a small fraction of large or suspicious currency transaction reports lead to investigations. Also, there are

many impediments to cooperation at the international level. Asset seizure and forfeiture also received a "low" rating, as just a fraction of crime proceeds are confiscated, the processes to achieve forfeiture, as well as the management of assets, are costly, and there are concerns about abuses of due process. Finally, supply reduction strategies also received a "low" rating as there are many indications globally that this approach, even when pursued aggressively, fails to appreciably affect the supply of illicit drugs, is very costly, and that traffickers have recourse to countless methods and routes of smuggling and distribution that circumvent interdiction and enforcement efforts.

Undercover operations and the use of informants were collectively rated as "low to moderate" in terms of effectiveness. These operations have produced many convictions of high-echelon OC figures, have been critical in major proceeds of crime and money laundering cases, and at times have caused turmoil and demoralization within criminal organizations. However, these advantages may be outweighed by some significant problems, such as their cost, danger and damage to the lives of officers, unreliability of and abuses by informers, concerns about entrapment, and potential for harm to third parties.

Four OC control measures were rated as moderately effective—prosecutions of persons involved in OC, prosecutions through the use of taxation laws, OC strike forces and drug task forces, and electronic surveillance. With regard to the first, many individuals have been convicted for lengthy prison terms under the RICO legislation in the US and some crime families have been disabled as a result. This apparent success has been diminished by the frequent use of this legislation to prosecute those not involved in OC. Historically, taxation laws have been a valuable tool in the prosecution of OC figures; however, their utility is counterbalanced by the cost of financial investigations and privacy concerns. OC strike forces and drug task forces launched coordinated attacks on OC in the US, involving many federal and local agencies. The drug task forces, in particular, have brought many indictments and asset forfeitures. On the down side, the strike forces were eventually disbanded due to jurisdictional conflicts with US attorneys' offices. Electronic surveillance is considered by many investigators as indispensable in the investigation and prosecution of OC figures and has contributed to the conviction of some notorious individuals. These advantages are diminished by the costs of surveillance, privacy concerns, the mobility of OC members, and issues involved in the interpretation of material that has been intercepted.

While no OC control measure was rated as "highly effective", three were given an effectiveness rating of "moderate to high." These three measures were: injunctions, divestitures, and trusteeships; witness protection programs; and, increasing regulation and establishing public benefit corporations.

The first of these is rarely discussed, perhaps because the measures fall outside the realm of criminal law. Court orders to dissolve organizations or to remove those with OC connections from their influential positions have been found to be highly successful in some instances, where organizations have been seriously tainted. No shortcomings of these remedies were mentioned in the limited literature on the topic. Nevertheless, a "high" rating was not accorded this approach as the evidence attesting to its utility was limited and somewhat partisan (i.e., much of it was furnished by a former prosecutor who found these tools useful). While such accounts may

not serve as a rigorous evaluation, it was thought that the experiences of those utilizing various OC control measures should carry some weight.

Witness protection programs were also rated as "moderately to highly" effective. These programs are not without their critics, who voice their concerns about their costs, abuses by career criminals, difficulties in building new identities and in the relocation of witnesses. These programs nevertheless received this rating because of the considerable evidence, from more than one country, of their value in saving the lives of witnesses and in facilitating the prosecution of many key OC figures who otherwise might not be convicted due to witness intimidation.

Finally, enhancing regulation and the establishment of public benefit corporations have received some strong, if limited, endorsements. While caution must be exercised in avoiding excessive regulation, strong regulation in sectors prone to OC infiltration eliminates the loopholes that invite this penetration. The use of licensing powers has prevented tarnished companies and individuals from operating in areas in which OC's infiltration in legitimate businesses has been problematic. Public benefit corporations have also been successful in competing with OC-dominated cartels and have thereby lowered prices for consumers. Here again, the highest effectiveness rating was not provided because the available evidence was limited.

Some Final Remarks

It is evident from the previous section that much research is needed in assessing the impact of OC control strategies. Limited evidence exists in relation to most measures and the evidence that does exist is largely descriptive in nature. Also, most of this evidence has been generated in one country—the United States.

Very little evaluative work, that is available to the public, has been done in Canada despite the flurry of federal legislation in recent years. Canadian initiatives also include such measures as the targeting of the upper echelon of criminal organizations, civil asset forfeiture in Ontario, an agency dedicated to combating OC in British Columbia, and municipal bylaws prohibiting "biker bunkers". These measures were not described in length, because the review did not find any non-classified studies examining their impact on OC activities or groups. The above analysis also indicates that Canada may need to invest more in witness protection programs, as well as in remedies that use local regulatory powers and other tools that might divest tainted organizations and individuals of their interests in legitimate businesses, where this is considered to be a problem.

In addition, some scholars note that the largely punitive approach to preventing OC (e.g., prosecuting members and confiscating assets) is limited in its efficacy due to new realities, such as increasing global economic integration, that facilitate multinational crime (Hicks, 1998). Such realities require multilateral solutions that take into account the growing mobility of money and contraband across national borders, as well as attention to the elastic supply and demand structure of illicit goods and services.

Before further research is done, however, scholars need to address the definitional chaos prevailing in the field. Performance measures, too, must be carefully considered. Simple body-

counts that tells us about the number of people convicted or amount of assets seized, as a result of some operation, are insufficient. Information is required about the economic and other costs involved in generating these results, the proportion of cases initiated that result in convictions, the proportion of criminal proceeds seized and confiscated, and the extent to which criminal organizations have been disrupted by enforcement efforts. With regard to the last-mentioned, there is considerable evidence that many OC groups are adaptable and resilient (see, for example, the discussion of headhunting and supply reduction strategies in Sections 4.2 and 4.16). Thus, evidence is required of long-term disruption of such groups. Even where this occurs, the possibility that other groups have filled the void needs to be investigated.

Ultimately, however, measures of the effectiveness of OC control efforts need to address the question of whether the harmful activities of OC groups have been mitigated. Mastrofski and Potter (1986:165) underscore this point about the questions that evaluations ought to address:

> Most important, what was the impact of these arrests on the business of organized crime? Were the offenders' illicit operations curtailed? Were the organizations disrupted? Did any disruption produce a net reduction in illicit activity, or did another criminal group merely take over? Without this in-formation the arrest statistics have little merit.

For Mastrofski and Potter (1986:169), OC must be conceptualized as a process and business as opposed to a static, centralized structure. They argue that there has been excessive emphasis placed on incapacitating individuals and too little on describing the manner in which OC networks operate, launder their revenues, and reinvest their profits. More emphasis is needed on the manner in which criminal networks organize to meet public demand and on the way enforcement efforts influence their illicit activities. Research on these and other process-related issues is still in its infancy.

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