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Some Criminal-Legal, Administrative-Legal, Criminalistic and Criminological Aspects of the Investigation of Crimes Committed by Organized Criminal Groups

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Abstract

The search to explain and anticipate organized crime has become urgent in recent years with the ease of international travel and trade, the globalization of communications via the Internet, and the emergence of many new democracies in Eastern Europe and around the world that are struggling to establish themselves. Because of these changes, the likelihood that local organized crime problems move to other locations to exploit new victims is greater than ever before.

Key words: criminal environment, harm, organized crime, economic, governmental, law enforcement, social changes.

Introduction The factors that explain the existence of organized crime are of three kinds: opportunity factors, the criminal environment, and special access or skills. It will be shown that distinguishing the important aspects of each of these factors enables the identification of high-risk activities and businesses at high risk of organized crime involvement.

Opportunity factors for organized crime are of four types: economic, governmental, law enforcement, and social or technological changes. Changing combinations of these factors help determine the nature and extent of organized crime in a specific area.

Economic factors impact on the presence of organized crime through economic conditions such as poor standard of living, high demand for an illicit product or service combined with an affordable supply, and a competitive environment that makes it possible to cater to the demand. Organized illicit drug distributors flourish in an environment like this, as would providers or prostitution, gambling, and loansharking. For example, cocaine use in the United States has leveled off in recent years, but estimates show much more trafficking from cocaine producing countries in South America toward Europe. The demand and economic stability needed to be a large drug consumer is present in many of the countries of Western Europe, and cocaine producers have begun shifting their trafficking patter to meet this demand.

On the other hand economic condition might not result in organized crime activity if other factors are present to intervene. These include government conditions, law enforcement factors, and certain social or technological changes. Government conditions and actions can inhibit or contribute to the existence of organized crime. Contributory government factors include a weak central or local government that has difficulty enforcing laws and contracts, corruption among political leaders, or laws that create or expand criminal markets (e.g., laws prohibiting new drugs, new tobacco taxes or restrictions changes in the way taxes are collected on fuel oil, absence of money laundering prohibitions, privatization of businesses in former socialist countries that occurs without laws to regulate how it is carried out).

Law enforcement factors are those characteristics of police agencies that discourage or promote organized crime activity. Law enforcement factors include the degree to which police are well trained and adequately paid, levels of police corruption, and the extent of government interference in police department operations. The level of police effectiveness varies significantly around the world and also within nations, and the evidence shows that ongoing vigilance is needed to insure police are not corrupted by association with organized crime activity. Social or technological changes th*at* involve new individual freedoms or new technology can promote or limit opportunities for organized crime. Examples include rapid changes in access to the Internet, the ability to travel freely, cell phone access, software copying capabilities, changes in the legal status of women, and similar factors that create or shift opportunities for both legitimate and illegitimate purposes. Technology has extended the reach of criminals to permit theft of property across national boundaries.

Combinations of economic, governmental, and law enforcement factors, and social or technological changes can create or inhibit the opportunity for the development or expansion of organized crime in a specific location at a given time. These opportunity factors can be aggravated or mitigated with the presence of certain characteristics in the criminal environment and in special skills or access required.

The criminal environment is the nature of the offending population in the community in question. Is there a history of organized criminal activity? Is there a history of organized crime activity in this area for this product or service? If so, the likelihood of organized crime exploitation of the opportunity factors described above would be increased. Another important factor in assessing the criminal environment is the history of general (non-organized) criminal activity in the area, especially for the product or service of concern. Generic criminal activity might indicate a somewhat reduced risk of organized crime involvement, as would the lack of any prior criminal involvement in the product or service area [1].

Modern dangerous tendency in committing crimes is their divergence. The means of accomplishment, objects for criminal encroachments, creating criminal structures do not fit traditional schemes in investigating crimes. They get new criminalistical meaning, which needs generalization and analysis for forming non-traditional investigating methodic (methodic of investigating contract killings and murders committed by organized groups). Working out new crimes investigating methods needs referring to recommendations, which optimally provide for effective investigation of such crimes. To these recommendations which have a certain amount of novelty, we can refer tactical operation system, chosen according to the type of crime and investigated situation.

Tactical operations are planned depending on the investigated situation, that is on the information complex, which exists at a certain investigation stage. Although they are somewhere typical which is determined by the situation. Thus, while investigating murders committed by organized groups under evident circumstances, they have one direction, when committing not-evident murders - quite another, determined by little primary information. The difficulty in determining tactical operations is conditioned by organized criminal group structure and character of functions fulfilled by its every member. But in all cases it is necessary to solve tasks during inquiry process: a) identification of a murderer; b) identification of the murdered; c) exposing members of a criminal group; d) establishing a way of committing and hiding a crime; e) exposing motives for a crime (political, financial, “wars” between criminal groups).

In accordance with the cited above tasks if is necessary to determine tactical operations, their direction, complex of investigation and operative-search actions, time of action, person in charge of operation [2].

Thus, tactical operation conditionally named “Victim” includes such actions: a) investigation of the crime scene (examination character is determined by the way of committing a crime (using explosives, firearms, etc)); b) body examination; c) corpse identification; d) questioning of witnesses; e) other examination (forensic-medicine, forensic - ballistic, explosive expertise) [3, 4, 5, 6].

Tactical operation “Murderer” includes such actions: a) questioning of witnesses; b) questioning of persons who were first to find murdered or watched committing a crime; c) rounds on neighbors living in the same house or yard to find probable witnesses; d) according to the situation following a criminal at once; e) establishing traps and barriers in places where a criminal or persons covering him would probably come [7].

Accomplishing a tactical operation conditionally named “Group” the aim is to detect organized criminal group. It includes the following complex of actions: a) questioning of witnesses for revealing probable contacts and conflict situations of the victim; b) operative actions on establishing probable members of a criminal group; c) conducting search and seizure if needed in a place of residence to establish information on probable threats from the criminals or any other relations (financial operations, political ambitions, etc.); d) questioning of relatives, close persons and colleagues; e) collecting information on the staff of criminal group according to activity character and interests of the victim.

Conducting a tactical operation on establishing a way of committing and concealing a crime includes such actions: a) examination of a place of incident; b) questioning of witnesses; c) establishing persons having information concerning situation before the crime (finding strange cars, persons, whose presence do not stipulated by any actions, etc.), d) fixing forensic expertise, including expertise connected with the method of murder; e) establishing operatively persons assisting to hide a crime - providing for transport, equipment, etc.

Tactical operation conditionally named “Motive” directed to establishing the motives for committing a crime may considerably assist detecting members of a criminal group and includes such actions: a) collecting information questioning witnesses, examining documents of a victim to find out of his activity and relations with other persons; b) questioning relatives, close persons, colleagues about conflicts taken place in his economic, financial or political activity; c) questioning the suspected in committing the crime; d) questioning witnesses from conflicting structures; e) questioning the murderer (if detained) to find out some information concerning the structure of an organized group.

Theoretical models of tactical operations while investigating crimes committed by organized groups are based on the analysis of their random choice effectiveness. Their forecasting results were reached. At the same time, their practical implementation is needed, it may be accomplished on different levels: a) recommendations on importance and effectiveness of implementing; b) working out educative programs on floppy disks and distributing them; c) implementing these programs on floppy disks at the level of district inquiry organs when working with murder, if its character supposes an organized group to be involved (murders in public places, murders using the explosives, etc) [8].

Crime becomes subtler and more insidious form that crepts into the criminal culture. Under combating organized crime the law enforcement experiences the broadening of criminal activity spectrum by the cited groups: a) by purposes crimes are violent, mercenary-violent and mercenary; b) by activities they are committed in finance and credit, external economic, commerce, banking and other spheres; c) by scale of activity they are local and inter-regional (including international) ones committed both by a group or separate criminals; d) by the number of group's members and so on.

Proceeding from the cited above circumstances the researchers took a differentiated approach to study a variety of kinds and types among organized groups and their members including their purposes and criminal activities. Under research the author made an attempt to compare his research results and the results achieved by Prof. Jh. Albanese by the scheme proposed. Based on the analysis of many definitions of "organized crime" Jh. Albanese identifies the following traits: organized hierarchy; profits by means of crimes; using force and threat; corruption for protection; public demand for services; monopolizing a definite market; limit on the number of participants; absence of ideology; specialization; code of secrecy; planning [9].

Conclusions Improvements in data collection need to be made in distinguishing crimes committed by individuals from those committed as part of group activity. Some countries now make these distinctions, which makes it possible to obtain information on trends regarding group versus individual criminal activity of various kinds. Other jurisdictions should follow this lead.

A practical method of applying prediction methods to organized crime in the form of a risk assessment tool should be implemented. The risk assessment tool is comprised of 17 variables in six categories: economic factors (4), government (3), law enforcement (4), social/technological change (2), criminal environment/special skills (3), and potential harm (1). These six categories of factors are most likely to affect the nature and extent of organized crime in a jurisdiction.

There are four parameters for an organized crime risk assessment tool to be useful in practice. It must be location-specific (i.e., findings will vary by geographic location), activity-specific (i.e., different activities will have different risk levels), time- specific (i.e., conditions change over time so risk assessment must done periodically), and all factors must be measured comparatively against levels found in other jurisdictions.

A “team" approach to risk assessment, involving police, analysts, and researchers, is an exemplary arrangement for organizing the information needed for application of an organized crime risk assessment tool. The types of data and analysis needed (intelligence, arrest/group trends, surveys, economic data, harm estimates) require the contributions of each of these groups.

An organized crime impact assessment should be conducted prior to the implementation of new laws or policies that affect commerce. The example of cigarette smuggling illustrates that even a simple tax revenue measure can have disastrous results in expanding organized crime and harming local economies, when existing knowledge of organized crime risk factors are not solicited or applied.

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