Racketeering in
Legitimate Industries

A Study in the Economics
of Intimidation

Peter Reuter
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Racketeering in Legitimate Industries

A Study in the Economics of Intimidation

Peter Reuter

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RAND
PREFACE

This report presents a study, sponsored by the National Institute of Justice, of the influence of racketeers on legitimate industries. The study was initiated at the suggestion of the head of the New York Organized Crime Task Force (OCTF), who offered to give The RAND Corporation access to data collected in an ongoing investigation being conducted by his office into racketeering and collusion in the Long Island garbage collection industry. He believed that these data could provide important insights into the general phenomenon of racketeering in legitimate industries. He also thought it would be useful to obtain outside assistance in the formulation of policy recommendations for structural remedies to supplement standard criminal sanctions for dealing with the racketeering problem.

The OCTF investigation provided extensive materials on the relationships between racketeers and various participants in the industry. The results of the analysis performed on those data were compared with available (less detailed) data on racketeering in other industries, leading to the formulation of possible policy changes that might reduce the role of organized crime in such industries. These changes are offered as an example of the kind of restructuring needed to reduce the influence of racketeers in legitimate industries.

The analysis and conclusions of this report are solely the responsibility of the author. They do not necessarily represent the views of the OCTF.

The report should be of interest to officials and scholars interested in organized crime and ways to control it.
SUMMARY

It is widely believed that certain industries in some cities are substantially influenced by members of organized crime. It is asserted that this influence, by stifling competition and/or extorting suppliers, imposes significant costs on both customers and firms. From time to time, law-enforcement agencies investigate this problem and find evidence that it exists. However, those same agencies readily admit that even if convictions are obtained, their efforts do little to remedy the problem. The available evidence, though quite fragmentary, suggests that the problem is inherent in certain structural characteristics of the industries that are affected.

PRIOR RESEARCH

This study builds on an earlier study of racketeering-influenced industries. One of those industries was the garbage collection industry in New York City and New Jersey. The study concluded that this case illustrated the workings of a mature racketeer-initiated cartel, in which racketeers received money for permitting the smooth functioning of a restrictive agreement. Customers were allocated among carterers so that they, in effect, became the property of the carterers and were correspondingly bought and sold. The result was payment of significantly higher prices for solid-waste collection services.

The racketeer influence clearly found its historical focus in control of corrupt local Teamsters unions, which were used to coerce carterers and customers into compliance. However, it appears that the union now plays a less central role in either New York City or New Jersey. The earlier study suggested that the industry had acquired a reputation for racketeer influence. As a result, those who were still in the industry were willing to abide by the rules of the current agreement, there was little new entry, and customers no longer challenged the agreement by aggressively seeking competitive bids. The primary beneficiaries of the arrangement were the carterers, though racketeers also received income from their participation in settling disputes about the operation of the "property rights" system.

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THE LONG ISLAND CARTING INDUSTRY

The basic arrangement of the Long Island carting industry in 1986 was very similar to that in New York City and New Jersey. Customers were allocated and treated as property by the carters. However, one long-time member of the industry rebelled against the agreement and began to aggressively solicit the customers of other carters. This resulted in an elaborate but unsuccessful effort to suppress his rebellion, including threats, property damage, use of political influence, and economic coercion.

The Teamsters union played only a very slight role in this effort, as did the Lucchese family (a component of the Cosa Nostra), apart from the one member who was a carter, Salvatore Avellino. But discussion among the participants in the effort to suppress the rebellion showed that both the Luccheses and the union were regarded as of central importance to the continued operation of the customer allocation agreement. Avellino regularly consulted Anthony Corallo, head of the Lucchese family, about how to operate the industry and deal with the union. Avellino also collected money from other carters each quarter to give to Corallo and the head of the Gambino family.

Three findings about the Long Island racketeering arrangements are of particular interest: First, although the union was relatively uncooperative in the suppression of the rebel’s efforts, the leading carters saw the obtaining of more direct control of the union as critical to increasing the power of the customer allocation agreement. Second, the racketeers appeared to take a modest share of the increased profits generated by the agreement, although Avellino asserted that he was now supplying them much more money than they had previously received. Third, the agreement seemed very stable; it had survived over a very long period in very much the same form, despite changes in the distribution of power among the Mafia families that had interests in the industry.

The major consequence of the allocation of customers was the suppression of competition. Because carters can so readily overstate the quantity of service they are supplying, and because it is difficult to obtain independent measures of that quantity, it is impossible to determine what prices were actually being charged. Analysis of the fragmentary data on the prices paid for customers in transactions among carters suggests that the average price for commercial service may have been about 50 percent higher than it would have been with competition; for residential customers, the price increase was probably only about 15 percent.
OTHER INDUSTRIES

This report also examines three other industries, although in significantly less detail: stevedoring (waterfront cargo handling), casinos, and garment trucking. Each of these industries presents a different pattern of racketeering involvement.

The waterfront industry is a case of pure racketeer extortion. Despite the regulatory efforts of the Waterfront Commission, racketeers continue to occupy positions of influence in the relevant locals of the International Longshoremen's Association (ILA). That influence, although no longer used to extort union members as was done in the 1940s, permits the racketeers to extract payments from waterfront employers in New York and other major East Coast ports. No effort has been made to restrict entry or control prices in the industry. Further, some of the payments are made, in effect, to take advantage of the ability of racketeers to prevent union members from otherwise exploiting the employers.

In the casino industry, the role of racketeers appears to arise from the historical origins of the industry in Nevada. Racketeers have control over some Nevada casinos, a control which arises largely from the financing of those casinos. The control is used mostly to skim money, defrauding the government rather than other private owners. Unions are very weak in Nevada, and racketeer influence does not appear to be based on control of these unions, though the Central States Pension Fund of the Teamsters has been an important source of financial power for racketeers in the industry. The regulation of the New Jersey industry, together with the corporate ownership of the firms, has ensured that racketeers, though active on the periphery of gaming in the state, have been unable to take control of the casinos. In neither state does it appear that racketeers have influenced the conduct of the industry as a whole.

The final industry studied is garment trucking in New York City. Here, the racketeers' role is much closer to that found in the solid-waste collection industry. Garment producers (jobbers and contractors) are forced to deal with particular trucking firms, and there is anecdotal evidence that a property-rights system has evolved with respect to individual customers. However, racketeers are also heavily involved in the financing of jobbers and contractors and are also more openly active in the individual trucking firms. The relevant local—102 of the International Ladies' Garment Workers Union (ILGWU)—is an important and active enforcer of the restrictive agreement among the truckers.
POLICY ANALYSIS

The problem of racketeer control is clearly complex. The major responses to it have been prosecution and/or economic regulation. A review of the history of these responses suggests that they have been notably ineffective.

In both New York City and New Jersey, allegations of racketeer influence over the carting industry have led to comprehensive economic regulation, although that regulation has taken different forms in the two jurisdictions. There is abundant evidence that the regulation has not prevented the increasingly smooth operation of a customer allocation agreement, with racketeers as significant beneficiaries of that agreement. It appears that the regulatory schemes have failed to focus on the elements of industry behavior that led to the customer allocation agreement and racketeer influence. Given the poor record that regulation generally has in inducing competition, this should come as no surprise.

The study concludes by detailing a proposal for the reform of the Long Island carting industry. It starts by noting that the recent prosecution of carters and associated racketeers resulted in sentences that will do nothing to discourage continued operation of the scheme. Indeed, these sentences may even encourage the participants and reduce the willingness of customers to seek alternative suppliers or of new firms to enter the market. A fundamental restructuring is necessary.

The proposal has four elements:

1. The creation of a Regional Authority to take over contracting for solid-waste collection services in the two counties of Long Island. The Authority would create a comprehensive set of districts, which would include both residential and commercial customers. Each district should be large enough, and the term of the contract long enough, that the winning of a single district contract would permit the establishment of a firm large enough to operate at close to minimum operating costs.

2. The requirement that all commercial and industrial establishments in each district provide to the Authority the modest amount of information necessary for the issuance of contract specifications that permit informed bidding and accurate reimbursement.

3. The creation of an office whose sole responsibility is the preparation of engineering estimates for each contract. This could possibly be a component of the Authority, but would more sensibly be attached to an existing state agency.
4. The creation of a public benefit corporation to operate a carting enterprise in competition with the private carting industry. The objective of the corporation would not be to maximize profits or market share, but to provide a monitoring device that gives force to the engineering estimates for the individual contracts. The corporation would provide, in effect, a yardstick for determining the reasonableness of contractor prices.

The suggestions presented here are not intended to be permanent reforms of the industry. If the market is seen to be working (if new firms enter, there is evidence of competition in bidding, etc.), then a return to unregulated direct contracting should be considered. But a period of restructuring is necessary to ensure the removal of barriers to the smooth functioning of the market induced by a reputation for racketeer control.
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The project reported here was initiated at the suggestion of Ronald Goldstock, head of the New York Organized Crime Task Force (OCTF). Mr. Goldstock ensured the availability of relevant materials from an ongoing OCTF investigation and provided extremely useful suggestions concerning the policy recommendations outlined here. James Stewart, of the National Institute of Justice (NIJ), was instrumental in providing funding at short notice, and Lois Mock provided sound advice as NIJ project monitor.

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I. INTRODUCTION

It is widely believed that certain industries in some cities are substantially influenced by members of organized crime. It is asserted that this influence, by stifling competition and/or extorting suppliers, imposes significant costs on both customers and firms. From time to time, law-enforcement agencies investigate this problem and find evidence that it exists. However, those same agencies readily admit that even if convictions are obtained, their efforts do little to remedy the problem. The available evidence suggests that the problem is inherent in certain structural characteristics of the industries that are affected.

The phenomenon of racketeer-influenced industries, despite a substantial journalistic interest, has attracted little scholarly attention. In an earlier study funded by the National Institute of Justice (NIJ) (Reuter, Rubinstein, and Wynn, 1982), two industries in the New York metropolitan area—garbage collection and vending machine distribution—were used as case studies to examine the general phenomenon. A preliminary effort was also made to provide a theoretical framework that would account both for the selection of particular industries by racketeers and for their choice of technique by which to apply their influence.

This study expands on the earlier effort in three ways: First, it makes use of new and richer material on racketeer influence in the garbage collection ("carting") industry; these materials provide extensive detail concerning the relationships among the major sets of participants—racketeers, carters, labor officials, and governmental officials. Second, brief descriptions are provided of the role of racketeers in three other industries in which they have been asserted to have significant influence. This points to the variegated nature of the problem. Finally, the study presents an extended analysis of public policy options available for dealing with racketeer influence.

STATEMENT OF THE PROBLEM

"Whether by violence or by effective mutual understanding, the stabilization of the market is highly desired in established business... The gangster undertakes to effect by illegitimate means what is a normal tendency in legitimate business" (Landesco, 1929 [1968], p. 151). This was Landesco's explanation in 1929 for the rapid growth in the
number of industries in Chicago of which "racketeers" were said to be in control or attempting to gain control.

Landesco's comments indicate that even in 1929, there was considerable alarm about the influence of organized crime over the conduct of particular industries in major cities. While Landesco was careful not to endorse a list of twenty-three such industries issued by an official of the Employers' Association of Chicago, he was able to adduce credible evidence of significant racketeer influence in at least a dozen industries. The constant repetition of alarm at the rise of a new phenomenon, as contained in the reports of the Kefauver Committee (U.S. Congress, 1951), the President's Commission on Law Enforcement and the Administration of Justice (1967), and the President's Commission on Organized Crime (1986), is misleading. Groups with the ability to coerce—the most significant asset of organized crime—have long found a ready market for their services in legitimate industries.

Moreover, Landesco saw, as later observers often did not, that the problem was not simply one of involuntary parasitism: "What, if any, is the function of the 'racketeer'? What problem of modern business and industrial life has led to his appearance? Is he a parasite or does he perform a service?" (p. 150). His view seemed to be that racketeers were invited in to deal with particular problems of organization in a market, but once there, they acquired exploitative powers that could deprive the initial host of any profit from their presence. Landesco's case material provided some support for this position. It is also interesting to note that many of the industries he named still appear on contemporary lists of racketeer influenced activities: dry cleaning, trucking, garbage collection, etc.

Landesco made little effort to explain the sources or consequences of racketeer influence; his was, after all, a descriptive study. He thought the problem was likely to occur in "a situation of cut-throat competition among small business enterprises" (p. 167). He also conjectured that the antitrust laws, by making restrictive practices on the part of individual businessmen more difficult, contributed to the problem. Indeed, Landesco saw little reason to distinguish between the sources of involvement of organized crime in legitimate and illegitimate businesses: "Where a line of action is outlawed, whether the manufacture and sale of alcoholics (sic) or gambling or trade and price agreements, a situation is created favorable for the entrance of the gangster, on invitation, or upon his own initiative" (p. 167).

Landesco's work, dated as it is, represents the most detailed scholarly description of, and sensible speculation about, racketeer control of legitimate industries published to date. Block (1982) provides similar
detail for industries in New York between 1930 and 1950. He, like Landesco, found that conflict between employers and unions, or among competitors seeking a collusive solution to market problems, was what provided racketeers with the opportunity for acquiring a significant role in an industry. In general, during this period, the racketeer apparently entered "by invitation" rather than through his own initiative. The Depression's extraordinarily deep and rapid decline in demand intensified the incentive for collusive services.¹

There are few other works that provide relevant information about the phenomenon. Jonathan Kwitny, an investigative journalist for the Wall Street Journal, provides a good journalistic account of racketeering in some contemporary industries, primarily in the New York metropolitan area (Kwitny, 1979). He gives a particularly detailed description of a complex extortion in the meat distribution industry involving a Mafia associate using his power over a union. Kwitny also discusses racketeering in liquor distribution, garment manufacturing, and mobile canteens. However, he does not attempt to explain why the problem occurred in these particular industries and not in others.

Studies by Hutchinson and Skolnick contain useful descriptive information, although neither attempts serious analysis of the sources or consequences of racketeer influence in the industries studied. Hutchinson (1970) provides a history of union corruption, relying largely on the investigations conducted by the McClellan Committee (the Senate Permanent Subcommittee on Investigations) in 1957-1967. Inevitably, his study deals with some industries in which union corruption provided the basis for racketeer control. Detailed descriptions are provided of the stevedoring industry and the needle trades in New York, and shorter descriptions are given of a number of other industries in Chicago and New York. Hutchinson notes the apparent importance of market factors in explaining the distribution of union corruption, which he asserts "has been most flagrant and enduring in industries of shared characteristics . . . the building, garment, longshoring, service and road transportation industries. All these industries are notable in some degree for small business units, high proportional labor costs, small profit margins, intensive competition, and a considerable rate of business failures" (p. 380).² While union corruption is broader than the phenomenon we are studying, those remarks are germane.

¹Reduced demand increases the discrepancy between marginal and average cost for each firm, since fixed costs are spread over a smaller production run. Since unconstrained competition will result in most firms incurring losses in the short run, the incentives to seek collusive price arrangements rise when demand declines sharply.

²Enough counterexamples can be provided, however, that this listing of factors is really not helpful.
Skolnick (1978) examines another industry in which racketeer influence has long been alleged, the Nevada casino industry. While acknowledging the historical roots of racketeer involvement, Skolnick focuses most of his attention on the difficulties the presence of racketeers or allegations of their presence have created for regulators. Except very indirectly, he does not consider the influences of racketeers on the operation or structure of the casino industry.

The President’s Commission on Organized Crime (1986) offers some useful material on organized crime control in two New York industries, construction (Chap. 8) and the distribution of meat, fish, and poultry (Chap. 9). The Commission was struck by the relatively open and direct role played by a leading Mafioso, the late Paul Castellano, in the meat industry. It explained the success of meat distribution firms run by organized crime as a consequence of the Mafia’s reputation for being able to get goods distributed; union power was given a less prominent role in the Commission’s account.

The Commission detailed the workings of a classic cartel in at least one sector of the construction industry. Here, all firms that sought to make bids on the pouring of ready-mixed concrete (RMC) contracts of more than $2 million were required to coordinate their bids through the cartel and kick back 2 percent of their winning bids to Mafiosi.

The cartel’s enforcement seems to have come from organized crime’s control of the relevant unions, but the fact that the RMC material was supplied to the contractors by a monopolist apparently under the control of organized crime certainly eased the task. The racketeers, in fact, chose to take some of their profits from the downstream contractors rather than exclusively from their monopoly in the RMC supply industry. Moreover, the organized-crime figures took (at least directly) a small share of the profits generated by the apparently effective contractors’ cartel. The Commission provided less detail on other segments of the construction industry but suggested that similar arrangements might prevail in those segments.

Strikingly absent from the Commission’s description is any mention of overt violence. The threat of violence presumably underlies the power of figures such as Castellano, but it very rarely needs articulation or actual performance.

The Commission also drew attention to the fact that the task of removing racketeers from their positions of control is not simply a matter of better law enforcement. The problem is too broad for that, since both labor and the business sector have made accommodations to

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3Castellano was the head of the largest Mafia family, the Gambino family, until he was murdered in 1985.
organized crime. Further, the problem differs in different industries and thus requires an industry-specific response. Unfortunately, the Commission did not suggest what the remedies might look like for any particular industry.

In summary, the existing literature establishes that there are some industries in which racketeer influence is a significant factor, in at least some major cities. New York City is prominent, but there may well be a reporting bias here, since New York is also the city with the most aggressive organized-crime enforcement agencies. There appear to be common elements that distinguish racketeer-influenced industries, but the identification of the necessary and sufficient conditions for racketeer influence is incomplete. There is some hint that the presence of racketeers is not accidental, and that they may generally serve some purpose for other participants in the industry.

However, the available data are very limited. Little attention has been paid to the sources and consequences of racketeer involvement, and even less to the appropriate remedies. Moreover, there is only a rather dim understanding of the means through which racketeers exert their influence. This report addresses these shortcomings, using the carting industry on Long Island as a case study.

PRIOR STUDY OF THE CARTING INDUSTRY

As previously mentioned, an earlier study developed an economic framework for analyzing both the sources and consequences of racketeer control. It also presented data on the carting industries of New Jersey and New York City. The following summary of that project is adapted from the published Executive Summary of the study (Reuter, Rubinstein, and Wynn, 1982).

A Conceptual Analysis

Racketeers are characterized by their ability to make credible threats of violence against a large segment of the community. This analysis assumes that they make economically rational use of that reputational asset, maximizing their income while taking into account the risks of legal sanctions to which alternative uses expose them. The analysis also assumes that not all legitimate entrepreneurs have the same willingness to voluntarily enter into agreements with racketeers that yield benefits to both parties, and that at least some of the variation in attitude is explained by the social background of entrepreneurs in a particular industry.
We deal with industries in which racketeers are alleged to affect the conduct of all participants. Not all industries in which racketeers participate meet this criterion. A racketeer may be able to use his criminal reputation and skills in the legitimate economy to earn high rates of return on the investment of time and capital without influencing the conduct of others. He might, for example, acquire a legitimate business that is complementary to one of his illegitimate enterprises, e.g., a bar may complement a retail cocaine or loansharking business.\(^4\)

A racketeer may also use his reputation to intimidate existing and potential competitors, thus creating a monopoly. This is a risky strategy. It generates many potential informants, while competitors may turn to other racketeers for protection. In addition, naked monopoly is the outcome most likely to attract the attention of antitrust authorities.

An alternative strategy, the creation of cartels (agreements among businessmen in the same market to coordinate their actions and restrain competition), can yield similar returns with less risk. Racketeers may induce entrepreneurs in an industry to form cartel arrangements which yield profits for the industry close to those that could be obtained by a monopoly. The reputation for credible threats of violence makes racketeers efficient cartel initiators and enforcers. The racketeers receive some share of the returns from these cartels. Creating cartels also solves the problem of coordinating the activities of numbers of gang members having independent and potentially competing interests within the same market.

This does not imply that cartel formation is the only method by which racketeers may control an industry. Indeed, Section III provides instances of quite different strategies. However, cartel formation does seem to be the most enduring and successful method, in part because it provides profits for others and is not purely exploitative.

The analysis suggests that racketeers are likely to play an important role in markets that have certain characteristics, including strong incentives to create a cartel (inelastic demand for the good or service, little product differentiation, etc.) but impediments to its formation (numerous firms, low barriers to entry, etc.). The social background of the entrepreneurs is probably also relevant. Low-status background will ease contacts between entrepreneurs and racketeers; thus low-status industries where the firms are owned by poorly educated entrepreneurs are more likely to be under racketeer influence. A union

\(^4\)The presence of racketeers in some industries, notably the hazardous-waste collection industry, may simply be explained by the large returns available from rule violations and racketeers’ greater willingness to violate rules, together with their ability to command silence from their associates.
is an effective and available tool for racketeer-run cartels where numerous firms employ low-skill labor and are vulnerable to short-term strikes (see Taft, 1958).

The little material available concerning industries in which racketeers have clearly acquired an important influence is consistent with this analysis. Racketeers are not believed to be influential in the industries containing large corporations or involving high technology. Rather, they are influential in those essentially local activities where small, family-based enterprises are particularly important. The solid-waste case study exemplifies this.

It can also be argued that racketeers seek to organize a particular type of cartel, namely a customer allocation agreement. Here, the principal rule is that each customer belongs to a particular cartel member; others cannot compete for the allocated customer's business.

The cartel is unlikely to attempt to control member prices. This conclusion comes from consideration of the cost of the cartel detecting and sanctioning violations of various kinds of agreements, the probability of an effective government prosecution of various agreements, and the attractiveness of the simplest possible rule for an illegal cartel.\(^5\) Customer allocation agreements are generally feasible only in certain industries, essentially those where the customer population is fixed in location and the service or good is delivered to the customer. Most of these industries are in the intermediate-goods, rather than final-goods, sector.

What are the consequences of racketeer domination of an industry? Assuming that racketeers are the organizers of a customer allocation agreement, we can predict (using conventional economic analysis) three major effects: As compared with the competitive alternative, these industries should have less efficient production, higher prices, and smaller firms. Less efficient production is engendered by the reduced incentive for lowering production costs; a firm cannot obtain an increase in market share by lowering costs, since all existing customers are allocated. If, as has generally been the case, technological change raises the minimum efficient size of the firm, the customer allocation agreement may permit the continued existence of many suboptimal firms. The agreement also permits inefficient firms to stay in the market and prevents efficient firms from growing. The higher prices result directly from the imposition of restraints of trade.

In each dimension, the effect is likely to be greater for a racket-run cartel than for other cartels. The reputation for racketeer involvement raises the barriers to entry into the industry. Customer resistance to

\(^5\)The analysis is based on the work of Stigler (1974).
producer price increases is lessened by concern about the adverse consequences of aggressive complaints; there is fear of violence against property and person. Since racketeers increase the confidence of participating entrepreneurs that the cartel will endure, incentives for efficient production are even more sharply reduced than they would be in a conventional cartel, where certainty about future success is always limited and the probability of imminent competition never vanishes.

The Case Study

The industry selected for the case study is the solid-waste collection industry, particularly the collection of waste generated by commercial and industrial establishments. While many of the firms in this industry also collect solid waste from residences, there are differences in the technology and marketing systems that permit the two activities to be analyzed separately.

The earlier study dealt with solid-waste collection in New York City and New Jersey in the late 1970s. Most of the firms in the industry were very small. In the New York and New Jersey case-study markets, firms with less than five trucks, and probably no more than ten employees, accounted for the bulk of revenues. Indeed, nearly half of the firms in New York City had three or fewer trucks. The companies were closely held, either as partnerships or as family corporations. Ownership was often passed down from father to son. Moreover, there were family ties among many of the firms.

The tendency toward cooperation rather than competition was reinforced by two other factors: In most metropolitan markets, one ethnic group is dominant, though the ethnicity is different for different cities; in New York City and New Jersey, the dominant ethnic group is Italian. In addition, many carting firms started with minimal capital and no reserve equipment. Trucks broke down frequently, particularly the earlier vintage trucks. The only way each firm could offer the uninterrupted service customers needed was to have reciprocal arrangements with other carters to provide backup in the event of equipment failure.

The McClellan Committee held hearings on the solid-waste industry in Los Angeles and the suburbs of New York in 1957. Those hearings left the industry with a lasting reputation for anticompetitive practices and racketeer involvement.

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*Most of the data on New York City were obtained from regulatory agency records; the Division of Criminal Justice in New Jersey provided access to records of an extensive investigation of the industry in that state.*
INTRODUCTION

A major change in the industry since the McClellan hearings has been the development of national collection companies. The largest, BFI and Waste Management, Inc., grew rapidly during the early 1970s through the acquisition of dozens of small local firms, though many of these affiliates retain considerable autonomy and many are even run by their former owners. The introduction of modern managerial techniques and of corporations with broad reputational concerns may substantially change the behavior of the industry. However, these companies presently account for only about 15 percent of the total solid-waste collection and disposal market.

New York City

In 1980, commercial and industrial establishments in New York City obtained solid-waste collection services from approximately 300 small firms. The city provided residential waste collection and operated all disposal facilities within the city limits. Almost all of the firms were owned by males of Italian origin, and most were organized as partnerships. There were no affiliates of the national collection companies in the city; indeed, there were no publicly held collection corporations at all. The largest firm had approximately 20 trucks, while approximately 800 firms with only one truck accounted for about 17 percent of the total truck capacity.

Allegations of racketeering in the New York City industry predate the McClellan hearings. In 1956, when the city ended collection services to commercial establishments in residential blocks, there was general concern about anticompetitive behavior on the part of carting firms. The Department of Consumer Affairs (DCA) acquired regulatory authority, setting maximum rates per cubic yard of waste collected and screening licensees to ensure that no racketeers were present.

There was very direct evidence of the existence of a customer allocation agreement. In hearings before the DCA, carters were willing to state that the purchase of a customer by one carter from another gave the purchaser the exclusive right to service that customer. A 1974 investigation of the Brooklyn carters' association also provided direct evidence on this point.

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These companies are also involved in the disposal of solid and other wastes.

Figures for New York City and New Jersey are based on 1980 data, unless otherwise specified.

This service was deemed an inappropriate subsidy for a subset of businesses. No allegations have been made that the decision resulted from the political influence of the carting industry or racketeers.
More indirect but comprehensive evidence of the allocation agreement came from the DCA-condoned practice of selling customers at high multiples of monthly revenues. Carters routinely sold groups of customers to each other. The multiple of monthly revenues used in these sales rose steadily over the first quarter-century of DCA regulation, from about 10 to approximately 40. In 1981, a single truck carter may have been able to sell his customers to other carters for as much as $400,000. Customers had become property.\textsuperscript{10}

The rise in the multiples over the years was probably the result of two factors: First, as the agreement continued to function without serious interference over a period of years, the confidence of participants concerning its future success rose. Thus, the participants increasingly believed, based on experience, that they could exploit customers in perpetuity. The second factor was also a consequence of the continued success of the arrangement. Threats of entry by new carters became more remote, and customers became increasingly inured to the monopolistic practices of their carter, who was thus able to more fully exploit his monopoly power. The increase in the value of each customer came then from increases both in the certainty of retaining the customer and in the degree of perceived monopoly power, as the reputational barrier to entry increased.

The high multiples paid for customers also made it clear that carters were routinely evading income-reporting requirements. The DCA required carters to submit financial statements, which were used in rate hearings. Those returns showed that the gross operating profit of the carters was less than 11 percent of total revenues. A customer charged $100 per month should then on average have yielded a gross profit of no more than $11 per month or $132 per annum. If the customer was sold for $4,000, this would suggest that carters were content with a return of less than 3.3 percent on their investment, far below market rates on the most secure investments. A little anecdotal evidence reinforced the impression of massive underreporting of income. The true operating margins were probably closer to 50 percent of actual operating costs, i.e., the cost of servicing the customer billed $100 per month was $67 per month, rather than the $90 reported.

Why did the DCA not intervene? It was certainly aware of the prevalence of monopolistic pricing, customer allocation, and unreported income. In part, it was hindered by very limited legal resources and

\textsuperscript{10}A 1984 court case described in New York State Assembly (1986, pp. 218–225) showed that the system continued to operate: An industry spokesman testified that the customer was property; goodwill appears not to have been part of the justification for this arrangement.
staff (and uncooperative courts). More fundamental was the carters’ ability to overstate the level of service delivered. Smaller stores put out their waste in irregular containers and were completely dependent on the carter for an estimate of the volume of waste collected. With larger customers, whose waste was collected in fixed-size containers, carters might cheat in any or all of three ways: overstating the size of the container, not completely emptying the container when they pick it up, or picking up the container when it was not full. All such practices were apparently common. Thus, regulation of unit prices had little impact on exploitation of customers.

It is possible to use the size of the multiples at which customers were exchanged to make an estimate of the excess cost imposed on commercial establishments in New York by the customer allocation agreement. A rough but generally conservative figure was approximately $45 million in 1981, or about 35 percent of the total payments for collection service.\textsuperscript{11}

Why did customers not take action against the carters? The customers included, after all, many large commercial establishments with a degree of managerial and legal competence. The reputation of the industry for having racketeer involvement probably served as an important deterrent. The fact that solid-waste collection costs were also a very small percentage of total operating costs and all firms were subject to much the same level of extortion with respect to this activity also may have hindered complaint.

Racketeers played a continuing role in the operation of the allocation agreement, primarily through the constant need to mediate disputes—hardly an unexpected situation in a conspiracy that involved the allocation of over 100,000 customers among 300 carters. The “grievance committees” that settled these disputes, using the basic rule that whoever serviced the site first has continuing rights to any customer that occupies the site, included at least one Mafioso.

There was little evidence of either threats or actual violence, but it seems reasonable to infer that the racketeers provided a credible continuing threat of violence that ensured compliance with the rulings of the committee. The union, which was instrumental in the creation of the original agreement, now appears to have played a negligible role. We were not able to identify how much racketeers received for their services or even to learn much about the manner in which they were paid.

\textsuperscript{11}The method used in this calculation is presented in Section II.
New Jersey\textsuperscript{12}

The solid-waste collection industry in New Jersey in 1980 shared many characteristics with the New York City industry. Most of the firms were owned by persons of Italian extraction, many of them in fact descended from a group of entrepreneurs who came from the same town in Italy. There were many family ties within the industry, which had a long-standing reputation for anticompetitive practices and racketeer involvement.

An inquiry into these matters by the New Jersey State Commission of Investigation in 1969 showed that associations of carter had formal customer allocation agreements. Since the state lacked an antitrust statute at the time, this was not clearly illegal. Following the report of the agency, the industry was brought under the regulatory control of the Public Utilities Commission (PUC). The PUC used a more complicated approach to price regulation than did the New York DCA; each carter was required to obtain approval for his own tariff. These tariffs were routinely ignored by the carter in the 1970s. It is unlikely that most customers were aware of their carter’s tariff or of the quantity of waste that the carter actually collected.

As in New York City, carter in New Jersey routinely sold groups of customers to each other. The PUC, though somewhat troubled by the practice, reserved only that each sale be registered.\textsuperscript{13} The price, expressed as a multiple of monthly revenues, was significantly lower than in New York City, averaging approximately 20, rather than 40. The difference may have been due partly to the relative newness of the statewide agreement in New Jersey and possibly to the larger share of total costs going to disposal, as opposed to collection.\textsuperscript{14}

Many of the commercial carter in New Jersey belonged to a statewide association; this organization replaced the various local associations that had operated customer allocation agreements during the 1960s. The statewide association (Trade Waste Association) was convicted in 1982 of serving as the vehicle for a continued allocation agreement. Most of the 29 indicted member firms pleaded guilty to restraint-of-trade charges.

\textsuperscript{12}In the earlier report, New Jersey was referred to by a pseudonym, “Victoria,” since the study dealt with litigation that was ongoing at the time.

\textsuperscript{13}The PUC orders approving these transactions (as “transfers of assets”) always asserted that, on the basis of the number of carter servicing the relevant counties, they were not likely to reduce the level of competition. There is considerable doubt that a group of counties does in fact constitute the relevant market.

\textsuperscript{14}The carter’s monopoly power was restricted to the share of his charges that reflected collection costs. As the share going to pay disposal costs rose, the capitalized value of monopoly rents declined as a multiple of the total price charged by the carter.
As in New York City, the role of racketeers in New Jersey seems to have centered around the settlement of disputes concerning the assignment of particular customers. This was alleged in the 1980 suit, New Jersey vs. Trade Waste Association. The racketeers' role was less direct than in New York, in that they did not generally appear at grievance committee meetings. Nonetheless, they sometimes appeared as last-resort enforcement agents when a dispute was not resolved within the association.

The major union cited in the earlier study was a singularly corrupt Teamsters local (Local 560). Two of its officials were murdered, and several others have been convicted of labor racketeering activities over the last quarter-century. It was certainly active in the past in the enforcement of customer allocation agreements. However, there was little available evidence that this was still the case in the late 1970s, despite the corruption of recent administrations of the local.

We were again unable to determine how much money racketeers received in return for their services to this industry or by what means they were paid. But there is reason to believe that the carters were the primary beneficiaries, although the lower multiples than those in New York City indicate less effective extortion of customers.

DATA COLLECTION: THE CURRENT STUDY

The study reported here was undertaken to provide data and analysis that would assist in the formulation of policy recommendations for structural remedies to supplement standard criminal sanctions for dealing with the problems of this industry.

The New York Organized Crime Task Force (OCTF) agreed to provide information collected in an ongoing investigation of racketeering and collusion in the Long Island garbage collection industry, including electronic surveillance reports and informant reports. Some materials, such as grand jury minutes, could not be made available, for legal reasons. Strict security was imposed with respect to the information provided. No original materials, or even copies of those materials, could be removed from the OCTF offices. Names of individuals in notes taken from these materials had to be coded, using a code maintained at OCTF. All notes were secured in a safe at The RAND Corporation. The OCTF retained rights to review all publications arising from this research, to ensure that there was no breach of the privacy rights of individuals under investigation and no threat to sources of information.

The OCTF review was restricted to these matters only. RAND retained the right to take policy positions and interpretations of data
that were different from those of the OCTF. The views and goals of
prosecutors and researchers differ; so do the interpretations of certain
materials used in this study. The prosecutors had access to some
materials not available to the author; he had, arguably, a broader per-
spective. The resulting disagreements are modest.

Since much of the litigation has now been completed and relevant
wiretaps released, real names are generally used in the narrative.15
Some names have been omitted to protect individuals not named in
public proceedings. Throughout the project, the OCTF made available
all the legally permitted investigative material, and OCTF personnel
operated fully in collating and interpreting this material.

The three major sources of information were, in order of importance:
1. Electronic surveillance. The OCTF carried out a number of
court-authorized electronic surveillances, including both telephone
taps and "bugs" (i.e., microphones placed in locations where discussions
of criminal activities were likely to occur). Some were consensual; others
were not. RAND was given access to these in order to permit the
development of policy recommendations for the reform of the Long
Island industry.

The realities of electronic surveillance are very different from the
picture provided in fiction. Many conversations are extremely difficult
to interpret, simply because of background noise. Some are inaudible.
Others are clear but incomplete. A car "bug" was particularly fruitful
in this investigation, but it placed heavy demands on the surveillance
team that had to follow the car. The preparation of accurate tran-
scripts took a great deal of effort.

However, the transcripts provided an immense amount of informa-
tion on relationships among conspiring carters and among these carters
and some major racketeers. In interpreting this information, it is
important to note that many statements are made for effect. For
example, one principal in the conspiracy claimed on a number of occa-
sions that his business was very marginal. Yet his business records, as
well as his very lavish lifestyle, indicated that his earnings from this
enterprise were substantial. The statements overheard in the elec-
tronic surveillance were made to justify, both to himself and to others,
his position in various bargaining sessions. Such posturing makes for
controversy in the interpretation of transcripts, as suggested by earlier
analyses of the de Carlo and de Cavalcante tapes (Anderson, 1979;

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15 Excerpts from the investigation's electronic surveillance were released at hearings of
the President's Commission on Organized Crime on April 24, 1985.
Smith, 1975). Of course, such problems bedevil interpretation of all conversations, not just those heard through electronic surveillance.

Finally, it is important to note the difficulties created by the confusing syntax of many participants. It was sometimes impossible to determine which individual was being referred to by a certain pronoun. In such cases, the conversations could not be used, even though every word was deciphered.

2. Investigator reports. Investigators conducted surveillances and interviewed informants. The records of these activities, as well as discussions with investigators and one informant, provided significant information.

3. Seized documents. A search of the office and safe deposit boxes of a major figure in the conspiracy, Salvatore Avellino, yielded many books and records. These helped investigators to determine the prices paid in the sales of customers. They also helped describe the evolution of Avellino’s business but were otherwise difficult for an outsider to interpret.

ORGANIZATION OF THIS REPORT

The following section presents a detailed study of the Long Island carting industry, focusing particularly on the relationships among racketeers, union officials, local politicians, and carters. It shows how interdependent the different groups are in the operation of the customer allocation agreement and points to an apparent paradox, i.e., the relatively small share of the profits extracted by the racketeers.

Section III analyzes the information available on three other industries in which racketeers have been alleged, over a number of decades, to play a substantial role: stevedoring in New York, casinos in Nevada, and garment manufacturing in New York. The discussion shows that there are at least three different forms of racketeer influence.

The final section analyzes public policy options available to deal with the problem of racketeer influence in legitimate industries. Particular attention is given to the structural reform of the Long Island carting industry. It is argued that heavy-handed regulation is not likely to be the best response to the problem of racketeering influence, and that the appropriate remedies are market-specific. The recommendations for Long Island carting call for a basic, but temporary, restructuring of the market to break the power of the dominant carter group and racketeers.
II. ORGANIZING CARTELS: LONG ISLAND CARTING

The primary data for this study concern the operation of the carting industry on Long Island. The cast of actors (both institutions and individuals) involved is relatively long and the roles are complex. Consequently, this section takes the form of a character-by-character narrative, after two brief background sections, one describing the setting of the industry and its general features and one providing some historical background.

THE LONG ISLAND CARTING INDUSTRY

Long Island consists of two counties, Nassau (the western county) and Suffolk. Each has a population of about 1.3 million, having trebled (Nassau) and quadrupled (Suffolk) since 1950. Both now contain substantial urban areas and a diversified economic base, including heavy industry. New York City commuters still constitute a significant share of the populations of both counties.

The counties are divided into townships (three in Nassau and ten in Suffolk). Within the townships are villages, some of which (despite the name) have populations of tens of thousands. The division of responsibility between the two levels of government is erratic. In the case of solid-waste collection, for example, either the township or the village can assume primary responsibility by providing municipal service or contracting out to a private carter.

The county level of government is dominant for some purposes, such as law enforcement. However, it has a relatively modest role with respect to solid-waste collection. Certain classes of trucks are required to have county Department of Health licenses, which are intended to ensure that organic waste is picked up and transported in facilities that do not threaten public health. That is the extent of county regulation.

The towns and villages exert varying degrees of regulation over private carters. Most towns require that carters be licensed to operate within the town limits. A carter whose routes cross more than one town may be required to obtain licenses from all of the towns involved, even if he does not collect in all of them. Some towns impose a limit on the number of carters that may operate within the town. Others set maximum rates that the carters may charge their residential customers.
Finally, some require that a carter have a minimum number of customers before receiving a license. This rule effectively limits the number of licensees, since it creates a significant barrier to entry and thus gives the current licensees, jointly, a degree of market power.

All towns are concerned with ensuring that the waste is disposed of at sites they operate themselves.\(^1\) There are no privately operated disposal facilities within the two counties. The charges at the dumps vary greatly, so there is a temptation for carters operating in towns with a high-cost facility to take their waste to a low-cost facility. Monitoring of this is constant, though imperfect; it is suspected that corruption surrounds the collection of dump fees and the monitoring of which dump each carter uses. In February 1987, four carting companies pleaded guilty to charges of bribing officials at the Islip town dump to avoid paying dump fees.\(^2\)

There were approximately 200 firms in the carting industry on Long Island in 1983.\(^3\) In the absence of a central registry, and given the number of corporate entities that can be operated by the same individuals, it is impossible to make a more precise statement, or even to make an authoritative estimate of the number of trucks being operated. Suffolk County Health Department records indicate that in 1984, 68 companies with a total of 305 trucks were registered in the county. This did not include trucks that picked up only inorganic material, most of which were “roll-off” trucks used at construction sites.\(^4\) It did include trucks that were held as backup equipment and may have rarely been used. Thus, the list provided only a very rough measure of the capacity of the industry. No comparable list was available for Nassau County.

The firms in Suffolk County ranged in size from 20 trucks to a single truck. The latter accounted for 5 percent of truck capacity. Firms with fewer than 5 trucks accounted for just over one-third of the truck capacity. Given that most of the roll-offs (which were not on the list) were operated by larger companies, this probably overstated the share

\(^1\)Their interest in doing so arises from the fact that marginal costs are declining and prices approximate average costs.


\(^3\)This number was obtained by counting all the firms in the 1983 list of the local industry association—the Private Sanitation Industry (PSI) Association—and adding all other firms found in the Yellow Pages telephone directories for Nassau and Suffolk Counties for the same year. There were also firms belonging to the PSI members that were not in either the association or the Yellow Pages. In addition, some firms may have changed names or gone out of business during the period between compilation of the Yellow Pages and the creation of the PSI membership list.

\(^4\)A “roll-off” truck has a flat platform that carries a rectangular container. The empty container is left at the site, and the truck hauls away a full container.
of the smaller firms in total capacity. But clearly this was an uncon-
centrated industry; the four largest firms had less than 25 percent of
the market, to use a standard criterion.

None of the national firms (BFI, Waste Management, Laidlaw, etc.)
was active in either county. BFI did have one contract, to haul waste
originally destined for a resource recovery facility which turned out to
be nonoperational; the waste instead had to be taken to a site in
upstate New York. But BFI has not attempted to compete for local
collection contracts from commercial or residential customers.

The local firms were all privately owned. Some were closely held
Corporations; most were sole proprietorships or partnerships. As in
New York City, the vast majority were owned by males of Italian
descent, and many owners were related to others in the business.

There are four distinct product markets within the industry, defined
by class of customer: (1) individual residences, (2) institutions or large
apartment buildings, (3) commercial and industrial establishments, and
(4) construction sites. Different kinds of equipment are used for col-
lection in each class; most firms operate in only one or two of these
markets.6

The distinction among product markets is particularly significant for
the racketeering issues with which we are concerned. The contracts for
the four product markets for the time period examined here had the
following differences:

1. Individual residences. For about one-fourth of the Long Island
residences, garbage pickup was contracted for directly by the
householder. The carter billed the individual household and,
in theory, the householder could change carters if he chose to.
In most towns where this was the mode of collection, the rates
were regulated to some extent. This mode of contracting is
called "scavenging."

2. Institutions and large apartment buildings. For about one-
third of such households, pickup was provided by a private
carter operating under municipal contract. The contracts
were for one to three years and were awarded to the lowest
qualified bidder. The typical contract covered a community of

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6The separation is not complete, however, e.g., a rear-end loader might be used for
individual residences and commercial establishments. But larger commercial customers
are usually serviced by specialized equipment.

6The definition of product markets in the carting industry has recently been the sub-
ject of litigation. In a 1984 merger case, the Second Circuit Court ruled that the residen-
tial and business/industrial customers constituted distinct markets; it did not accept
finer distinctions offered by the government (U.S. v. Waste Management, Inc., 743 F. 2d
976, 2nd Cir. 1984).
2,000 to 3,000 households and generated annual revenues of approximately $250,000. Some municipal contracts included provision of service to small commercial establishments; most did not.

3. Commercial establishments. The market with which we are most concerned is the collection of solid waste from commercial establishments, such as restaurants, stores, and light industry. These establishments contracted directly with the carter, and there was no regulation of the rates. Contracts were generally not written; the arrangement provided for service as required, although, apart from seasonal fluctuations, this was likely to be fairly routinized on a weekly basis.

4. Construction and industrial sites. Construction activities and heavy industry generate different, mostly inorganic, kinds of waste. Construction sites usually require collection service for a relatively short period of time. However, a construction firm will typically have, over time, many sites, so that there may be a certain contractual stability, i.e., one carter may effectively have a contract to provide pickup at all the sites of a particular construction company within his service territory. The equipment used is different from that usually used for commercial waste. A large roll-off container is picked up at the site, and an empty one is left in its place.7

It is important to note that Long Island contained more than one distinct geographic market. Suffolk County alone extends for more than 100 miles and, given the importance of transportation costs in this industry,8 no firm was likely to offer services to customers throughout its length, at least not from a single location.

This suggests that there was no necessity for a large-scale conspiracy among the 200 firms operating on Long Island for carter to achieve cartel profits. A relatively small number of firms, sometimes as few as five, operated in the individual geographic markets,9 an agreement that included only those firms was not likely to face much threat

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7Commercial establishments generating large quantities of waste may also be serviced with roll-off containers.

8Some indication of the significance of transportation costs was provided by an analysis of tariffs filed by New Jersey carter in 1984. These gave marginal costs of about 5 cents per mile per cubic yard; tariffs were approximately $4 per cubic yard for customers in the carter's prime territory. A customer 20 miles further away might be 25 percent more expensive to service.

9The term "market" is used here very loosely, simply to connote an existing set of suppliers and customers. No claim is made that these constitute antitrust or economic markets.
from firms operating in other areas. On the other hand, there may be enough overlap among these territories that some larger coordinating mechanism was necessary for boundary disputes, particularly since barriers to entry were slight.

HISTORY

There is a long history of accusations and investigations of racketeering in the carting industry on Long Island. Indeed, the 1957 New York City hearings of the McClellan Committee on the carting industry dealt primarily with racketeering in Nassau and Suffolk Counties. That investigation showed that the union had cooperated in the enforcement of a customer allocation agreement in the commercial sector and with respect to publicly bid (residential) contracts. Racketeers, members of various Mafia families in New York, had beneficial interests in certain carting firms, and the union had treated those firms favorably. Bernard Adelstein, the leader of Teamsters Local 813, was accused of misappropriating union funds as well as of cooperating with well-known organized crime figures. The racketeers appeared to have initiated the organization of a carters' association and the operation of the customer allocation agreement within that association.

The McClellan Committee's investigation led to some indictments. Adelstein and Vincent Squillante (the principal Mafioso involved in day-to-day operations of the industry) were convicted of extortion, but the conviction was overturned on appeal. Squillante disappeared—he was presumably murdered—prior to a scheduled trial in 1960. His nephew, Aniello Mancuso, who was much investigated by the Committee, continued to be active in the industry for another decade. Adelstein was still active at the time of this research, in 1984.

Ten years later, another probe was made into the carting industry in the two-county area. The story reported in *Newsday* indicates the repetitiveness of the accusations:

Nassau District Attorney Cahn began an investigation yesterday of an alleged attempt by key Cosa Nostra figures to take over the multi-million dollar Nassau garbage industry. . . . Cahn said that (rackets bureau chief) Levy was investigating an alleged attempt to take over private carting companies and to dominate the private companies and the membership of the (Waste Removal) Institute. . . . Cahn's garbage investigation followed one by U.S. Attorney Robert Morgenthau's office, which is probing reports in Suffolk County of intimidation, truck burning, route take-overs, skylocking, and rigged bidding on waste disposal contracts. (December 22, 1967)
We were unable to find any report in later issues of the same newspaper of indictments resulting from either of the investigations.

Another decade later, Newsday carried another set of stories concerning the carting industry. There were reports of arson and violence among the carters, apparently surrounding the effort by two men, Aponte and Gonzales, to form a union that would compete with Local 813, and a related effort by some of the carters to form a rival carters’ association. Some 22 trucks were destroyed during 1977, and the two union organizers were found murdered in a car trunk. Their deaths ended the effort to organize the rival association and union. The carter most prominently involved in the rebellion, a man who had also testified against the racketeers before the McClellan Committee, was killed in 1981. The newspaper reported that this death was probably related to the 1977 rebellion. None of these murders was solved.

The exact origins of the dispute among the carters are hard to identify. One of the rebel leaders was a prominent associate of the Columbo family, which had apparently been pushed out of the Long Island industry by the Gambino and Lucchese families. However, it may simply have been an effort by some of the carters to expand their share of the market by neutralizing the power of the union.

Then in 1978, Newsday entered the fray directly with a very detailed and carefully researched five-part series on the Long Island carting industry. The first part accurately summarized the conclusions of the series:

Despite past government investigations, convictions and industry claims of reform, organized crime has influenced for years the operations of the carting industry’s trade groups, whose membership includes most of the large private carting companies. Those trade groups have served to suppress price competition and rig the bidding on public contracts to benefit favored companies, some of them owned by mob figures.

Questionable tactics by some municipal governments on Long Island have helped carting monopolies flourish. Some contracts to private carters have been awarded without competitive bidding. Thousands of businesses pay taxes for municipal garbage service that they never get. . . . In some cases, sloppy municipal records result in residents paying carting firms to collect from routes that include nonexistent “ghost stops.”

The influential role of organized crime in the industry has produced terror tactics aimed at driving lower price competitors out of the

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\(^{10}\)The Columbo family is one of five Mafia (or Cosa Nostra) gangs (“families”) operating in New York in the 1960s. The other four are known as the Bonnano, Gambino, Genovese, and Lucchese families.
marketplace. . . . A recent internal war in the industry has led to two killings. . . .

A corrupt alliance between the carting monopoly and its principal union serves as an additional means of assuring higher profits by keeping competition out of the industry. . . .

The carters' trade organizations orchestrate a flow of contributions to politicians. . . . In one town officials passed legislation producing bigger profits for carters and higher bills for taxpayers, and a sudden flurry of carting company contributions totaling $16,900 promptly flowed into the officials' campaign committees. (December 17, 1976)

The evidence for all these conclusions was powerful. With respect to public contract bidding, for example, the newspaper reported uncontested single bids for major contracts of state and county facilities. Every effort by authorities to generate competitive bids failed. In some cases, apparently competitive bids were offered by a carter other than the previous contract holder, but they were later withdrawn for rather flimsy reasons and the contract had to be awarded back to the firm which had previously held it, generally at a higher price than the firm had offered initially. Typically, the same firm held a public contract for many years.

Other parts of the series raised questions about just how aggressively local government officials contested the carters' collusive behavior. In one incident, it was shown that a notorious figure in the carting industry who had a short criminal record had lied about that record in applying for a local license, but a political contribution had apparently led to a nonpublic decision to award him the license. The same town had adopted very restrictive rules for licensing new carters; in effect, the only way to enter the town was to purchase a large existing route from one of the current licensees. The newspaper estimated the cost of such a purchase at about $150,000. The town used this restrictive rule to disbar a low bidder for a contract, since he did not have a license at the time of the bid.

Apart from possible corruption in the municipalities' dealings with carters, there was also some question about the competence of the municipal agencies. In one town, the officials did not have an accurate estimate of the number of residences in the various districts put out for bids. One of the districts turned out to have only half as many residents as the town officials thought; when the error was discovered after the award of the contract, the town made no effort to recover revenues. The winning bidder had certainly known of the error, since he had held the contract previously.
In those towns that were supposed to receive carting services for commercial establishments under municipal contracts, the situation was even more egregious. One town specified that 112 establishments were to receive service; in fact, only 23 did. The remainder (there were actually only 97 establishments) contracted with other carters, since the city contractor would not provide them the specified services.

The Newsday series generated approving comments from law-enforcement officials. The Nassau County District Attorney said that at the time of the series, an antitrust probe of the industry had already been under way for eight months. In Suffolk County, the District Attorney and the County Executive both said that they would begin investigations. The federal Organized Crime Strike Force also reported that it had an investigation in progress.

The products of these investigations, despite the documentation provided by Newsday, were meager. Joseph Petrizzo, a leading figure in the industry, according to the newspaper's account, was convicted on loan-sharking charges; but there was nothing to suggest that this came out of the investigations of the carting industry. Another, lesser figure was convicted on charges of billing a town for pickup services not actually provided, and two carters were indicted for attempting to bribe an IRS official. The major investigations into customer allocation and bid-rigging, however, failed to produce any indictments related to these matters.

This history indicates how well known the central features of the industry are. There has been a constant reiteration of evidence that the carters, the union, and racketeers act together to suppress competition in important segments of the market. The passivity, and even cooperation, of local politicians has been widely publicized. There have been repeated investigations of the industry by law-enforcement authorities. Yet none of these investigations prior to 1984 had led to indictments of conspirators for coordinated actions.

CURRENT ORGANIZATION

Since racketeers first entered the Long Island carting industry in 1953, the principal coordinating organization has been at the county level. The names of the organizations have changed over time but there has always been either a Long Island association or one for each county, through which customer allocation agreements have operated with varying degrees of success. The current organization, the Private Sanitation Industry (PSI) Association of Nassau/Suffolk, was set up in 1978. One reason for its creation was the growing disrepute of its
predecessor, the Nassau-Suffolk Cartmen's Association. The new name may also have represented a transition in Mafia family control, with the Luccheses succeeding the Colombos as the principal controllers.

The PSI had 142 member firms in 1983. In many ways, it operated like a conventional local trade association, representing the industry in front of local regulators, orchestrating political contributions, and organizing social functions. It had a very visible executive director, James Corrigan, who made frequent public appearances on behalf of the industry. He served the same role for two other industry associations.

The association was governed by a self-selected executive board of members. This board appeared to play a central role also in the unlawful operations of the PSI, namely the allocation of customers and the intimidation of members. There were indications that board members were intended to serve as regional "captains." A carter who had a complaint against another carter was expected to approach the captain of his region. In practice, there were often other ties between a carter and a board representative that might lead to a different route of complaint. Moreover, as we shall see, the board was not the only means for dealing with complaints about competition.

The organization of the industry in 1984 can perhaps best be understood by describing the incidents surrounding the effort of one conspirator to expand his share of the market. This rebellion engendered a strong reaction from some of the other carters, partly accounted for by the fact that another carter was also defying the agreement.

Robert Kubecka, the rebel, was the owner of a medium-sized carting firm with three affiliates. The affiliates had a total of 5 to 10 trucks, depending on the state of their business. The firm was originally founded by Kubecka's father, who served primarily residential customers in a small and rather rural area of Suffolk County. Even then, the firm was occasionally involved in market-sharing agreements, generally losing out when the agreement broke down. By 1983, the firm did a significant amount of commercial pickup.

It was of considerable significance, at least in the eyes of the other carters, that the Kubeckas were not of Italian descent. Robert's ethnicity was a matter of frequent comment by the others, who occasionally referred to him as the "Polish ham."

Robert and his father had long been suspected by the other carters of being informants for a particular police agency. Prior to joining the

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11A review of Yellow Page listings showed an additional 31 carting firms in Suffolk County who were not members of the PSI. However, some may have been affiliates of PSI member firms.
PSI in 1979, they had been subject to harassment, both by other car-
ters and by the union. Anthony Vespucci, from Sail Carting,\textsuperscript{12} had
offered to buy out the firm. After Robert’s father (who was running
the firm at that time) refused this offer, union officials approached
commercial customers of the Kubecka company and directed them to
switch to supposedly unionized firms. It is not clear, in fact, that all of
the favored firms were fully unionized.

A number of customers switched to these other carters, in some
cases after acts of vandalism had occurred that they associated with
the union demand. In response to this loss of customers, the Kubeckas
enrolled some of their employees in the union and restricted their
activities to an area in which they did not conflict with Sail Carting.

Nonetheless, they were members in good standing of the PSI, from
its early days until Robert decided to break the agreement with respect
to customer allocation. He began aggressively soliciting customers of
other carters in the towns in which he was most active.

The firm most directly affected by Robert’s actions was again Sail
Carting, whose owner was in the process of selling the business. The
major asset of the business was its customers, and Vespucci was selling
the firm in pieces, each piece consisting of a block of customers and a
small amount of equipment. The sales contracts all specified payment
over a period of about 60 months, and each was contingent on the pur-
chaser receiving customer revenues of the amount specified in the con-
tract. Loss of customers posed a peculiar threat to Vespucci, since it
immediately reduced the capital value of the firm at a time when he
lacked the means to retaliate.

Kubecka’s price-cutting engendered a variety of responses. Some
customers found themselves the beneficiary of a price war, when
Vespucci or his successor offered as much as six months’ free service
and/or a drastically cut price. Other customers found, in addition, that
disguised threats were uttered about the probability of Robert not
being able to provide service much longer.\textsuperscript{13}

Some customers were subjected to more direct threats. One restaur-
ant owner found his car severely damaged and was convinced that this
was the work of the carter whom he had given up for Robert. Others
found that Robert’s containers, placed on their property at their
request, were moved away.

\textsuperscript{12}Carters are mostly known by the name of their firm; indeed, they often know each
other only by first names. Vespucci would introduce himself on the telephone as Tony
Sail. When he retired, he found it awkward to use his real name in identifying himself
on the telephone to former associates.

\textsuperscript{13}Descriptions of these incidents are drawn from investigators’ reports, frequently
based on interviews with the affected customers.
Many different carters were involved in these retaliatory efforts, although Sall and its successors were the most active. Some customers were uninhibited and stayed with Robert; some were persuaded by the better offers to switch away from Robert; and still others were intimidated into dropping Robert’s services.

It was notable that the union, a major participant in the customer allocation agreement in the past, did not exert pressure against Robert. Salvatore Avellino, the leading figure among the carters, was very unhappy about this. Indeed, one of the major reasons that Avellino and his associates later contemplated setting up another union local to replace Local 813 was that they were unable to persuade Michael Fleischer, the union organizer on Long Island, to harass Robert. Fleischer’s reluctance was based in part on his suspicion that the industry was being investigated by law-enforcement agencies.

A number of other methods were used to suppress Robert’s rebellion, none of them very successful. A town official, who was on close terms with some of the leading figures in the PSI, arranged a meeting between Robert and Vespucci to have them work out their differences. Meanwhile, Avellino discussed possible arrangements for sabotaging the trucks of rebel carters, possibly including the Kubeckas. Someone placed metal shavings in the engines and Robert had to undertake expensive repairs, as well as search for backup equipment. There were also meetings between Robert and as many as six other carters who had taken customers away from him. One of the carters, who had a lawsuit pending against Robert in connection with a municipal contract the Kubeckas had won, offered to take back commercial customers (returning matters to the status quo ante rebellion) and drop the lawsuit.

The failure of this last offer is instructive. The swaps were offered on the basis of price, i.e., the carters wanted Robert to give them customers yielding current revenues equal to those yielded by the customers that he had taken from them earlier. Kubecka protested that he had cut prices so drastically that he now would have to return many more customers than he had originally taken. He countered with an offer that they literally swap customers, i.e., he would return those he had taken from them and vice versa. This appeared to be an acceptable offer, until negotiations broke down because of bidding on a certain school contract.

This school contract had previously been held by another carter but Kubecka had won it in the most recent round of bidding. That bidding had led to a lawsuit contesting the legality of the award to Kubecka, on very questionable technical grounds. Nonetheless, bidding had been reopened. The other carter proposed that Robert should enter the
same bid in this new bidding as he entered before. The other carter would enter a lower bid.

After agreeing to this arrangement, Robert decided not to bid on the school contract at all, reasoning that there was no point in bidding if he knew he was going to lose. As it turned out, yet another carter submitted a lower bid and won the contract. Some of the carters blamed Robert for this and said the deal was off.

More efforts were made to end the rebellion. Robert’s father, who was still a part-time participant in the business and was concerned about his son’s safety, approached Avellino, asking him to act as a mediator. Avellino refused, saying that this was not a proper function for a board member of the PSI.

Still more meetings were arranged, with other carters acting as mediators. Nothing came of these either, although one included an offer to buy out Robert’s business at a very generous price. Robert was, quite reasonably, suspicious that the contract, which would certainly specify payment over time, might not be fulfilled once he had given up operating the business himself.

In all these transactions, reference was made to the “multiple” that would be paid for commercial stops, between 40 and 45 times monthly billings. A significantly lower multiple was attached to residential customers, 20 or 25.

Robert did not restrict his rebellion to the commercial segment of the market. He started to bid aggressively on public contracts formerly held by other carters. In the course of doing this, he found himself confronted by indications of conspiracy between carters and public officials. In general, there was a concerted, almost uniformly successful, effort to prevent Robert from taking public contracts from other carters. He even had difficulty obtaining copies of specifications for some contracts.

Robert’s final act of defiance concerned an application by the PSI to obtain an increase in the maximum allowed rate for residential pickup in the town of Huntington. He argued in front of the town council, which was considering the application, that no increase was required. This was the act that led finally to his expulsion from the PSI. The increase was in fact awarded. The PSI and two town officials pleaded guilty to conspiring to bribe the town officials. One councilman is under indictment for soliciting and accepting a bribe.

It is curious that at no stage did any gangsters from outside the industry enter the process of directly intimidating the Kubeckas. Sal Avellino, whose complex role and identity are discussed below, was the one exception to this noninvolvement of gangsters. The most likely explanation for the paucity of threats is that there was always concern
that Robert might be a police informant. From time to time, Vespucci, the carter most directly threatened by Robert’s rebellion, refused to follow up a suggestion for direct action, such as a threat, by asking (rhetorically), “Do you want me to go to jail?”

Somewhat veiled threats were made from time to time against both Robert's business and himself. At one stage, a veteran carter from New York City, Fred Lamangino, who was reported to have boasted of his connections with organized crime, called to persuade Robert to sell out. He stated that the deal would be guaranteed by Sal Avellino, in return for 3 percent of the sales price “up front.” Robert did not find this an attractive offer.

Robert’s rebellion revealed both the strengths and the weaknesses of the industry’s customer allocation agreement. Its strength lay in its breadth. Union officials, racketeers, and political officials, as well as the other carters, were all willing to provide some support for the continuation of the agreement. But it was weak in that only the carters were willing to involve themselves directly in enforcement. Their enforcement efforts, in fact, turned out to be cumbersome and provided the basis for the first serious investigation of the customer allocation agreement.

PROPERTY RIGHTS

The essence of the customer allocation agreement was that each member agreed not to accept or seek business from customers who were currently served by another member. This was referred to as a system of “property rights.”

The system was identical to that operating in New York City and northern New Jersey, except in its comprehensiveness. In New York City, the agreement covered only commercial and industrial customers, since residential collection was carried out entirely by the city itself. In New Jersey, there was a separate, and recently ineffective, vehicle for dealing with municipal contracts. On Long Island, the one association, the PSI, operated a property rights system that covered both private and public contracts.

The carter who first serviced a given location had a perpetual right to service that site. For example, a carter complained to Robert that he, Robert, was servicing one of his stops (commercial customers). The claim rested on the fact that some years earlier the other carter had provided service to that location. He had lost the business when

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the town decided to include small commercial premises in the coverage of the municipal contract. The township had since dropped that service, and the premises were in the hands of a different business from the one the other carter had serviced. Nonetheless, he asserted, and Robert seemed to think that it was a reasonable application of the rules, that he retained the right to service those premises.

It was clear that there was competition for the right to first service a location. Customers did provide evidence that they received very large price increases fairly early in their dealings with a carter. Efforts to find another carter were uniformly unsuccessful. The first question asked by a potential carter was who currently serviced the stop. If the answer was a member of the association (then the PSI), the carter would tell the customer he could not bid for the work.

The arrangement was restricted to PSI member relationships—PSI members were at liberty to take customers from nonmembers. Indeed, timing was important. Robert demanded the return of customers from another PSI member, who argued that Robert had not been a member at that time. When Robert said that was not true, the other carter agreed to return the customers.

The arrangement for public contracts differed in no significant way from that for commercial customers. Sometimes a matching bid was arranged. Indeed, Robert, scarcely an inner member of the group, had certain contracts for which the only rival bid was one arranged by him to avoid the appearance of impropriety. He was willing to reciprocate the favor and enter a high bid for a contract held by his collaborators.

Not every member of the agreement felt the need to obtain matching bids. Some contracts were regularly let to sole bidders. Public officials—and it is not possible to vouch for the veracity of their responses—claimed that efforts to obtain more competitive bids had occasionally led to “punishment.” The second round of bidding would again produce only the one bidder, and he would enter a higher price than he had the first time.15

Though this system of bid-rigging had been in place for some time, there was still a certain lack of confidence in its efficacy. This was revealed in a conversation between Tommy Ronga, a carter who was second in influence only to Avellino, and Mary, a principal in a carting firm run by a group of family members. Ronga told of the following conversation on the occasion of a visit to Mary’s home, after her firm had won a bid for which the PSI had arranged complementary bids.

15Similar experiences were recorded in the New Jersey investigation of the New Jersey Trade Waste Association (see Sentencing Memorandum, New Jersey v. Trade Waste Association et al., 1983, pp. 19–20).
The firm had, however, bid lower than the PSI had suggested:  

She said to me, "I'm sorry Tommy if I said anything to offend you. I was all confused but I know what it's all about now." I said, "Pat's got to learn to trust people, Mary. You see, at the end there, you still went and did it for a cheaper price. And the position you put Sal in? A very embarrassing position. When we go in there for one number, we got to go for that number. If we get killed, we get killed. If we win, we win."  

The carters themselves were sometimes unconvincing of the impropriety of their behavior. One of them, in the course of discussions about the sale of customers and the nature of the restrictive covenant associated with it, said, "To me, what I am doing is legit. Sometimes I think I ain't... I've started to believe the news media in what they talk about us, that we are all no good."  

Later, in talking to the Kubeckas, he said,  

Me and you are negotiating buying and selling routes. I think it is only ethical, you are looking to buy my business, I'm looking to sell my business to you, that you shouldn't solicit my customers and I shouldn't solicit yours... After our negotiations break down, then I think you can go ahead and do what you want because you have a perfect right. You still have a perfect right now. I still think it is unethical if we are negotiating to talk.  

Such statements are, of course, potentially disingenuous. No doubt all criminals, particularly those who are not obviously depriving others of life or property, see little evil in what they do. After people have participated in an activity for thirty years without active punishment, they are highly likely to believe their own self-deceptions.  

RESIDENTIAL CUSTOMERS  

There is some evidence of a customer allocation agreement in the residential sector, where the carters bill the individual homeowners directly. Occasionally the conspirators attempted to punish Robert, most of whose business was residential, by "raiding his residential  

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16 In some of the quoted material in this report, expletives have been deleted.  
17 Sentencing memorandum, People v. James Corrigan, Jr., County Court of the State of New York, July 1987, hereafter referred to as Sentencing Memorandum. This document included over 500 pages of transcripts from electronic surveillance by OCTF.  
18 Sentencing Memorandum.  
19 At another stage, a carter complained that it was unreasonable to expect him to compete with another carter with whom he was on friendly terms. To take customers would be like his friend taking his wife when they came over for dinner (Sentencing Memorandum).
stops,” but that was done to sanction him for taking commercial stops. On one occasion, the industry association used political connections to prevent some carters from entering Huntington and soliciting residential stops at a lower price. The association was concerned that this would lead to the rejection of an application for a rate increase then being considered by the town council.

This latter incident is of some interest. On the one hand, it does suggest that the association operated to increase prices for residential customers. On the other hand, there is nothing to indicate that the association intended to sanction those carters who sought a “peddler’s license” in the town. No overt threats were made to those carters to force withdrawal of their application. The political strings were pulled merely to delay the awarding of their licenses.

It is very significant that the union had not organized most of the residential collection firms. The conspirators, in discussing the potential of a new union local, to be called Local 813A, saw its value in being a means of eliminating competition in the residential sector. By implication, that suggests that there was, at that time, competition in that sector. On the other hand, they also seemed to believe that they could use the new union to reduce the number of commercial carters.

The answer may be that there was less necessity for, and less reward in, an explicit agreement in the residential (scavenger) sector. Residential customers are not able to pass along to others increased garbage collection costs, and there is always the threat of their shifting to municipal collection or municipal contract. In light of this, the rest of this analysis concerns only the commercial and contract markets, except in our consideration of explanations for the distribution of power in the industry (see Section IV).

The multiple for residences appeared to be between 20 and 25 times monthly billings. One firm was willing to consider paying 25 to 1 to a small carter who wanted to sell a route with 2,000 homes on it. He hesitated because there was a rumor among the carters that the town in which this route was located was about to put out a municipal contract for residential collection. In various other transactions involving both conspirators and nonconspirators, the multiple of 20 to 1 was mentioned.

The multiple apparently increased between 1974 and 1984. When Avellino entered the business in 1974, he purchased a number of residential routes from other carters at multiples of around 12 to 1. The increase probably represented a strengthening of the cartel arrangement.

There were some interesting boundary cases concerning classification of customers. One carter was negotiating for the sale of his busi-
ness, which included some school district contracts. These contracts, most of which were fairly small (between $5,000 and $20,000 per year), are awarded in public bidding. The purchaser talked to another carter about what he should be paying for these school contracts. The carter advised him that once the school contract has been renewed, "The thing is worth 40 or 45 to 1. Well 40 to 1... You negotiate with him and see how he takes it. I says the schools are commercial. I says the only things that are bid on for 20 to 1 are homes."

ROLL-OFF CUSTOMERS

The other major market apparently not covered by the conspiracy was the roll-off market. Referring to New York City, Salvatore Santoro, a senior Mafioso, said directly, "There is no association with roll-offs."20 No explanation was offered either by him or by anyone else, but there are some factors that may have bearing.

Perhaps the most important factor is that much of the roll-off work is short-term. A builder will need to have waste picked up at a particular site for a period of some weeks. After that, he may not need roll-off services in the same neighborhood for quite some time. An allocation agreement would not work for the site, since roll-off work would not be needed there after the initial service.

Also relevant were the numerous ties among contractors, the customers for roll-off work, and the principal carter's. The ties came from racketeer connections: Construction firms were frequently extorted by the same racketeers involved in the operation of the carter customer allocation agreement.21 One method for making a payoff to the racketeers was to give the roll-off contract to a carter favored by them.

Avellino was a prime beneficiary of these arrangements. At one stage he was asked to mediate a dispute between a carter and a building contractor who had refused to pay his bill. Avellino said that he would settle the matter and then obtain exclusive rights to pick up from any Long Island site of that contractor.

This raises the question of whether it would be profitable to have that right if the builder was working at a site remote from the garage of Avellino's company, clearly a generic problem for this kind of alloca-

20The New Jersey customer allocation agreement also did not include roll-off work. See the deposition of Harold Kaufman in New Jersey Board of Public Utilities vs. Carmine Franco and Co., Inc., State of New Jersey, Board of Public Utilities, Agenda date: 8/27/87, Agenda item: 10A.

21The heads of the five Mafia families in New York were convicted in November 1986 on charges that, among other things, they controlled the allocation of cement contracts to building sites in the metropolitan area.
tion agreement. The answer seems to have been subcontracting. Avellino frequently subcontracted roll-off work to other firms; the price he charged the customer was sometimes 50 percent higher than the amount he paid to the subcontractor. Indeed, Avellino had no choice but to subcontract as he had no equipment for roll-off work. Avellino’s records suggested that he made between $250,000 and $300,000 from such subcontracting in 1983. This should be regarded as almost entirely profit, since it involved no cost other than that of processing bills among customers and subcontractors.

Not all roll-off work is for temporary construction sites. Very large stores and certain kinds of industrial plants that generate mostly nonmetallic waste also prefer to use the large (25- to 40-cubic-yard capacity) containers that can be handled through roll-off. In New York City, this was regarded by carters as the most profitable segment of the market, and the multiple used for the sale of these customers was higher than that for other commercial stops.

Clearly, the explanation offered above for the lack of a customer allocation agreement in the construction site market would not apply to this other roll-off market. It may be that so few firms offered the service that no formalized agreement was required. That in turn raises the question of why more carters did not enter the market, since the entry barriers were not substantial, at least for any existing carter. At this stage, we can offer no explanation, except perhaps the speculation that the firms in this segment were those with the most threatening reputations.

RACKETEERS

The role of racketeers in the Long Island carting market is central, but difficult to characterize. On the one hand, there is no doubt that they regularly obtained money from carters as a group, though direct payments were modest. On the other hand, it is not clear just what services they provided in return for that money. We also do not know what other monies they may have received indirectly, a matter taken up later. Their involvement is best understood by consideration of Avellino, the central figure connecting the carters and the racketeers.

Avellino had been the owner of a carting company since 1974. He entered the industry in his late thirties, having previously been the owner of a garment-manufacturing firm. He had no criminal record, and at the time the OCTF began its investigation, it could find no
intelligence information suggesting that he was involved in any criminal activity while a garment manufacturer.

However, he came from a family with extensive criminal involvement. His father was probably a soldier in the Lucchese family, in which his uncle was later a capo. His brother was a gambling operator. He himself became a member of the Lucchese family. It seems implausible that he was not involved in organized crime activities well before 1974.

When Avellino entered the carting industry, he apparently had no particular cachet or connection with the union or other carters. He was subjected to intense union pressure in the mid-70s. An effort was even made to destroy his property during the 1977 intercarter struggle.

At some stage, though, he became a member of the Lucchese family and a prominent figure in the carting industry. The exact sequence is hard to determine, but it seems plausible that the two events were related. He helped organize a new carters' association, the PSI, to replace the notorious and faction-ridden Nassau-Suffolk Cartmen's Association. He established close relations with other, more experienced and prominent carting company owners. He became the chauffeur and close associate of the leader, Anthony Corallo; he also became close to the deputy leader of the Lucchese family, Salvatore Santoro.

He became a dominant figure among the carters. The head of the PSI checked with him before making decisions, and other carters deferred to him and expected him to be able to resolve disputes. He took a public role as a spokesman for the carters and was on the board of the PSI. He headed the (unofficial) group that bargained with the union in 1983.

His connections went well beyond the carting industry. For example, he knew some prominent figures in the construction industry on Long Island, and he used those connections to influence the distribution of carting contracts for new construction. He was involved in discussions of efforts to extort money from businesses in the trucking sector of the garment industry.

His involvement in purely criminal activities was also fairly routine. He was active in the management of a gambling business, and he frequently talked with other racketeers about the operation of an illegal casino in New York City.

Avellino had a complex identity. He was clearly a member of the Lucchese family, although he was sometimes not very knowledgeable about its customs, and he actively concerned himself with the politics of the five families. But he was also an active carting entrepreneur. One of Avellino's major roles appeared to be the delivery of money to
the Lucchese and Gambino families. Each quarter, he and a small number of other carters collected monies from a subgroup of the PSI for delivery to the two family heads. The one indication of the amounts involved suggested that more than $50,000 was delivered to each family each quarter.

Avellino was proud of the fact that he increased the amount delivered after he became prominent in the industry. Indeed, he was clearly miffed that his success was not formally acknowledged. In one conversation, he commented on the attitude of the leader to whom he delivered the money:

You want to know the truth, Tommy. He never says a word but they are all doing good... He never asks how much. It’s all sealed up. The accounting is inside. All the notes are inside. But you would like, say, “Gee is there a mistake?” Next time would they say, “Is there a mistake?”

Tommy replied skeptically,

“Take $5 out, see if they find it, Sal.”

It was often made clear that control of the industry was shared between the Lucchese and Gambino families and that the money must be split evenly between them. A discussion of the possibility of setting up an alternative union (Local 813A) is particularly interesting in this respect. Avellino and his carting associates still proposed to share the profits between the Gambinos and the Luccheses, but the union leader would no longer be entitled to a share. This suggests, though not with certainty, that Adelstein received some money independently of the racketeers. If he did, it must have been through his own agents, for at no stage did Avellino suggest that any carter paid Adelstein directly or that the money he collected included a share for Adelstein.

It was reported at one stage that the head of the Gambino family (Paul Castellano) said how pleased he was with the way Avellino had coordinated the industry since he took over. One of the questions that this comment opens up is how the system was organized before Avellino took over. It is clear that the two families, and perhaps the Colombos as well, received monies from the carting industry. The total payments to the heads of the families appear to have been less than $200,000 before Avellino took control, since he claimed to have more than doubled the total. The previous racketeering representatives, who were less directly involved in the industry, may have taken more for

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22Cited in the April 1985 hearings of the President’s Commission on Organized Crime (hereafter referred to as PCOC Hearings), p. 691.

23See conversation quoted on pp. 686-687 of PCOC Hearings.
themselves (since they received income only from extortion, whereas Avellino received income from operating a carting business as well), and the lower-level figures may have also received a share of the total. Thus, the amount taken out for the racketeers may not have increased, but more may have been delivered directly to the senior members of the families.

A striking feature of Avellino’s performance was the fact that he persuaded so many of the carters that he was seeking, almost altruistically, arrangements that benefited all. Repeated references were made by others to how much their lot improved after Avellino entered the industry. For example, Avellino reported that Freddy, another carter,

> came to my house one Sunday with a brand new Mercedes, the small one, the fifty thousand dollar one. so I walked out, it was a Sunday morning and I said, “Congratulations, beautiful, beautiful.” He says, “I just wanted you to see it, cause this is thanks to you and to PSI that I bought this car.”

In another conversation, Avellino made clear that he understood the value of playing fair in the application of the property rights rules:

> Ya see, out here Frank in Nassau, Suffolk County... we don’t shake anybody down, we don’t steal anybody’s work, we don’t steal it to sell it back to them like they do every place else, in five or six years... whenever I got a stop back for a guy because somebody took it, never was a price put on it, because if it was his to begin with and he was part of the club and he was payin’ every three months, then he got it back for nothin’ because that was supposed to be the idea... So I never let them think that we were interested or that I was interested in just taking money from them.

It is clear that the agreement disproportionately favored a relatively small number of carters, who received a larger share of new business. But it is also likely that all the members of the PSI, many of whom probably had little contact with Avellino, also benefited from the increased security that Avellino’s honest application of dishonest rules provided.

Avellino’s behavior was also seen to contrast sharply with that of others involved in the carting industry in New York City and that of his predecessors on Long Island. For example, it was said of one of his predecessors that he “makes a partner out of everybody that he bumps into,” i.e., that he took a share of the profits of each carter with whom he came into contact.

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24 *Sentencing Memorandum.*
One puzzle about Avellino was the method he used to build up his business. Originally he purchased a small residential carting firm from an associate of the Colombo family. Over the next ten years, the company, Salem Carting, purchased at least twelve routes from other carters. The prices paid appeared to be in line with the multiples reported in other sources. For example, in September 1979, the firm paid $83,209 for residential stops with a monthly income of $3,262, a multiple of about 25 to 1.\(^{25}\)

The puzzle has two elements: First, why did Avellino go into the segment of the business in which the union, and indirectly the racketeers, was least powerful? Second, if he had an advantage relative to other carters arising from his close connections with racketeers, why did he pay the market price for customers? We have no explanation for these observations.

None of the racketeers with whom Avellino conversed showed much independent knowledge of the industry. They occasionally gave advice to Avellino about how he should deal with specific problems, but only when he brought up those problems. For example, Corallo and Avellino discussed the desirability of filing, rather than nuts and bolts, being put into the engines of rebels' trucks. Corallo also told Avellino that, in light of the possibility that the industry was under investigation, strong action against rebels should be delayed. "Once it's over, you get him; you don't make waves, throw gasoline on the fire. That's the gist of it."\(^{26}\)

Avellino did have a concern about racketeers involved in the carting industry in New York City, since there were some firms headquartered in Queens that also operated on Long Island. A Gambino capo named James Faiella was the racketeer most heavily involved with the New York City carting industry, and Avellino perceived Faiella as having much closer ties to the union. At one stage, Ronga wanted to buy the business of a recently deceased New York carter. Avellino was concerned that Faiella would try to extort Ronga. He instructed Ronga that if that happened, he was to say that Avellino was a partner in the venture and then Faiella would have to deal with Avellino.

Members of the Gambino and Lucchese families may have benefited from their influence in the Long Island carting industry in other ways as well. For example, there were possible ties through the insurance industry, but nothing conclusive was found.

\(^{25}\)It is possible that the documents do not reflect the actual transaction. If Avellino had intimidated the selling carter, he could force that carter to sign a contract overstating the sales price.

\(^{26}\)PCOC Hearings, p. 666.
THE UNION

Only one union local played a significant role in the Long Island carting industry, Local 813 of the International Brotherhood of Teamsters. This local also represented carting employees in New York City and Westchester County. On Long Island, it apparently represented only the workers involved in commercial collection. The residential carters were not generally unionized.

The leader of Local 813 in 1984 was Bernard Adelstein. He had been the leading figure in the union, first as president and then as business agent, since 1951. The McClellan Committee, in 1957, showed that Adelstein had received payments of a doubtful nature out of union funds and that he had selectively enforced union rules to favor firms controlled by racketeers. He was convicted of labor racketeering charges, but the conviction was overturned in 1958 on technical grounds. His son and nephew were, respectively, president and treasurer of Local 813 in 1984.

Union negotiations with the PSI and its predecessors have not always been smooth. In 1978, a ten-day strike resulted from a breakdown in negotiations. The final outcome was a compromise between the union’s demands and the carters’ final offer. In 1983, the two sides started very far apart; Local 813 sought an increase of $160 over three years, and the carters offered $60. The final increase ($81 over three years) was achieved without a strike.

The strike in 1978 requires some explanation. On its face, it would appear to suggest that there had been genuine bargaining between carters and union officials, a view inconsistent with the hypothesized collusion between the two groups. After all, a strike imposes losses on both parties. There are two possible responses to this.

First, it may have been a temporary disagreement between conspirators, either about the optimal strategy or about the division of the spoils. The strike came shortly after a long struggle over the creation of a new union, which included the killing of at least three persons in the industry. Relationships may not have been sufficiently harmonious to permit agreement on the wage increase, even though the two groups were cooperating on the enforcement of a customer allocation agreement. After all, the famous electrical conspiracy of the 1950s, involving collusion among the major manufacturers of electrical generating equipment, broke down at one stage, though the conspirators retained the basic framework of negotiation throughout the period (Geis, 1977).

Second, it is possible that the carters had a strategic interest in promoting the appearance of tough bargaining. In a number of towns, the ceiling rate that may be charged residential customers is regulated. It
is unclear how that rate is determined, since there are no public hearings, and no justifying documents are presented for setting the rates. However, the carters apparently believed that they would be allowed to pass on increased wage rates in the form of a rise in the ceiling rate.

Under certain rate-setting procedures, the regulated firm benefits from increases in wage rates, provided they are incurred by all the regulated firms. This is true, for example, of the “operating ratio” method used by the International Communications Commission (ICC) until the mid-1970s; the allowed rate of return on invested assets rose with wage rates (Moore, 1978). The implicit rate-setting formulas used by the towns may well be of this type, so the wage increase was beneficial to the carters.

However, there has long been a suspicion that the carters and the union were colluding at the expense of the customers. The wage bargain may have been regarded by many as the product of that collusion, thus leading politically sensitive town councils to refuse to pass on the full costs of the increase. The strike then might be seen as a method for the carters to establish that they had bargained in good faith, even though they had not.

This is a highly conjectural explanation which is contradicted by a small number of observations. First, information concerning the negotiating attitude of the carters in 1983 indicated a real concern with achieving the lowest possible increase. In the following conversation, the carters who led the (informal) negotiations for the PSI (Avellino, Ronga, and Fezzi) were rehearsing what they would say to Bernie Adelstein:

We can’t give the store away because there is no store to give away. Things are very bad. The men are all complaining. The bosses are all complaining. You got a few Indians out there, robbing all kinds of work... which is not your problem Bernie. That is our problem, an association problem. But in the meantime we got Indians there, losing work. The union can’t do nothing to stop them. The union doesn’t do nothing to help. We have in Brookhaven, in Islip, in Smithtown firms that are nonunion, so when municipal bids come up they are up there bidding away. This prevailing rate\textsuperscript{27} doesn’t mean a thing to them. Nobody abides by it, so when you get a guy that is a union man and he toes the line, he hasn’t got a chance to win the bid. He hasn’t got a chance. (Taking Adelstein’s role.) We go on strike. (Reverting to his own role.) Then I got to say you’re not strong enough to make it, to really make a strike go. The strike was only a few days (referring apparently to 1978). Everybody was ready to go to work. The union people were ready to go to work. You

\textsuperscript{27}Towns generally require that municipal contractors pay “prevailing wages.” If an industry is heavily unionized, the prevailing wage is the union contract figure.
don't have enough people to man the dumps. You didn't have pickets in front of two of the dumps that we had. O.K., we can work with a strike.²⁸

This certainly conveyed the impression of people preparing to bargain aggressively in the forthcoming negotiations. Avellino laid out the need for such bargaining by showing that the existence of nonunion firms limited the ability of unionized firms to raise the level of wages. He cast aspersions on the union's ability to back up a tough bargaining position with an effective strike, arguing that the 1978 strike was not a success from the union's point of view.

It is hard to interpret this as the prelude to a collusive agreement in which the union leader and the carters were merely bargaining about how to find a credible method for passing on large increases. The proposed $20 per week increase offered by the carters amounted to only about 5 percent per annum, on top of the $18.20 required as a cost-of-living increase under the previous contract.

Moreover, Corallo had instructed Avellino to take a strong position. Avellino reported to his associates a conversation that he had with Corallo before setting off for the bargaining session. "He said don't let [Adelstein] get away with anything. You tell him no, this is it, this is what you want and that's it. Stick to your guns about it."²⁹

The carters in this same conversation complained, in some detail, about the economic troubles they faced. They claimed to each other that they could not afford to pay the wage increases that the union demanded. Of course, a great deal of data indicated that they made large incomes, so this may have merely been a device to make them feel more aggressive in the bargaining situation.

The conversation later turned to the interesting issue of whether it was in their interest to offer a bribe to the union leader for not bargaining aggressively, or whether he was likely to offer them a payment for agreeing to a substantial increase. One of the carters suggested that Adelstein was likely to make them an offer. Avellino responded by saying, "He wants to talk envelope, we can talk envelope... Instead of you bringing us an envelope, I'll bring you an envelope." Which led one of his colleagues to say, "You're giving me an opportunity of saying well let us deliver you an envelope and come up with a good contract that the guys could live with."³⁰

This suggests a weak connection between the union and the employers. However, there are also two pieces of direct evidence con-

²⁸Sentencing Memorandum.
²⁹Ibid.
³⁰Ibid.
cerning such collusion. First, Michael Fleischer, the union organizer, conversed frequently with Avellino about enforcing union rules for the benefit of the participants in the customer allocation agreement. The conversations showed that Fleischer did not do this as actively as Avellino and the others wanted, but he did indicate a general willingness to consider selective enforcement of union rules against carting firms nominated by Avellino as troublemakers. For example, Fleischer was asked to go to the commercial customers of the rebel firm and tell them that the rebel was not a unionized firm and that the customer risked being picketed if he permitted that firm to pick up his garbage.

Fleischer’s reluctance to carry through forcefully on Avellino’s request was a source of considerable irritation to Avellino and his associates. This irritation was heightened by the fact that some of the carters were paying Fleischer directly for nonenforcement of union rules.

The relationship between the carters, as represented by Avellino, Ronga, et al., and the union was clearly very complex. Avellino complained bitterly about Adelstein’s unwillingness to cooperate with the carters. He blamed this lack of cooperation on two factors: First, the union leader was more closely associated with the Gambino family than with the Lucchese family, of which Avellino was a member. The Gambino interests in the Long Island industry were less direct than those of the Luccheses. Consequently, Avellino believed the Gambinos were not willing to push Adelstein to support the Lucchese-run conspiracy. Second, the union leader was no longer aggressive, perhaps because he was getting older.

Moreover, the Gambino control of Adelstein was not strong in Avellino’s eyes. He and Ronga discussed it at one point:

Ronga: What I can’t understand, Sal, is all the years now how they let him get away with that.

Avellino: I don’t know.

Ronga: He gets very little of that.

Fazzini: Who controls?

Avellino: See, years ago, believe it or not, just between us, years ago he was on our side. . . . And there was a few guys around . . . then how they let, when Paul’s (Castellano) son married Tommy’s daughter. . . . See, and he went and they more or less drifted over there. They claim him but they don’t control him. . . . I’m a firm believer that you can’t claim anybody unless you can control him. If
you can't say to this guy, stop, and you keep saying no, I'm not going to stop, then I don't have you.\textsuperscript{31}

The carters were enthusiastic about setting up the new Local 813A. It would complement rather than compete with Local 813 by unionizing the residential carters, particularly in Suffolk County. The purpose of the new union would be the completion of the customer allocation agreement.

Avellino and Ronga said that they did not intend to misuse union funds:

Avellino: Sure we're going to have a union, a real legitimate one.

Fazzini: Got to be legitimate.

Ronga: We are using it for a totally different reason.

Frosh: You want to control the workers. . . . Right now you control the employers.

Avellino: Right, right now we as the association control the bosses, right. . . . Now when we control the men, we control the bosses even better now, because they're even more afraid now.\textsuperscript{32}

At another point, Avellino said, "The union is only a tool to make everything strong," and, "A strong union makes money for everybody, including wise guys [a synonym for Mafiosi]. The wise guys make even more money with a strong union because the envelopes could be bigger and better."\textsuperscript{33}

Indeed, Avellino was somewhat embarrassed by the fact that he was not currently unionized, or at least he claimed that it put him in an awkward position in his dealings with other carters. "I win a bid and then he'd say oh . . . look at all the houses he got and he's nonunion. They do that. People are jealous." Avellino maintained throughout that he was effectively paying the prevailing wage, including benefits, despite the fact that he was not unionized.

He claimed to be embarrassed in another way by the lack of effective union control: "We got the embarrassment right now. I don't have the face to go at the end of time for collection\textsuperscript{34} and ask for, they look at me, they give me the money. I got a bad face because I know

\textsuperscript{31}PCOC Hearings, pp. 680–681.

\textsuperscript{32}Government exhibit 327a in U.S. v. Anthony Salerno, 86 Cr 245 (S.D.N.Y. 1986).

\textsuperscript{33}PCOC Hearings, pp. 689.

\textsuperscript{34}This apparently refers to the quarterly collection of money from carters for payment to the Gambino and Lucchese leaders.
in my heart I am not servicing these people. . . . Do you know what an embarrassment that is? 35

These remarks suggest that the union was only marginally involved in the customer allocation agreement. Fleischer, the local union organizer, did provide some assistance to the conspirators, but much less than they wanted. He took a significant amount of money from potential members of the customer allocation agreement in return for not unionizing them or not enforcing union terms. Whether Adelstein was aware of this was unclear. Fleischer eventually disappeared from the scene; this may have been a consequence of his lack of cooperation with the conspirators or the result of his greed in shaking down carters generally. However, these possible reasons for his disappearance are purely speculative.

Adelstein's bargaining behavior was equally difficult to assess. He did eventually settle for an amount much closer to the carters' initial offer than his own initial demand. But that is perfectly consistent with honest bargaining behavior. Nothing from the conversations of the conspirators suggested that they expected, or achieved, a corrupt bargain with Adelstein.

On the other hand, everyone involved who might know of Adelstein's connection with organized crime seemed to assume that Adelstein was intimately involved with the Gambinos. But no direct evidence was available concerning this. Nor was it clear who wielded the power in the relationship. Did the Gambinos pay Adelstein for the right to extort money from carters or did Adelstein pay the Gambinos for ensuring that no competitive union entered the scene? The answer may be that there was no actual exchange of money, but that the two found it in their joint interest to support each other. The Gambinos assured that there would be no union competition, and Adelstein supported the interests of the Gambinos against other organized crime groups.

PLANS

Avellino and his collaborators were not content to leave matters as they stood. In their conversation after meeting with Adelstein, they discussed plans for increasing their control of the industry. Those plans are of interest, since they reveal both the goals of the principals and their own understanding of the factors that currently limited their reach.

35Sentencing Memorandum.
As made clear in some of the previously cited excerpts, Avellino and his associates were convinced that the autonomy of the union leadership limited their ability to organize the industry. Avellino laid out his hopes about the returns from controlling the union in a long, rambling speech to Ronga and Fazzini:

This is what we want to do. Get the international, get the Teamsters put "A" on 110 or local 813A. . . . Our people, you know when I say our people, our people that we tell what to do, but, but the package is divided fifty-fifty. In other words whatever is to be, every dollar that is made is fifty-fifty. But the only people that count, you see, offers what to do, is us. 'Cause we, do you understand me. And then let's go to town and then because eventually Tommy what do you think it's gonna be? It's gonna be fifty-sixty of us. If there's gonna be ten of us, four of us pickin' up all the garbage. I want to tell you who's gonna pick up. We're gonna knock everyone out, we're gonna knock everybody out, absorb every, eat them up, of whoever we, whoever stays in there is only who we are allowing to stay in there.37

Fazzini admiringly commented, "You got big plans," to which Avellino responded, "Well, isn't that the truth." Certainly this was a very different vision of the industry than what they had been able to accomplish so far. From a customer allocation agreement among a large number of carting firms, Avellino was proposing to move to a small-number cartel, driving out the firms owned by all but the principals in his group.

Before the meeting with Adelstein, Avellino also seems to have envisioned a more direct role for gangsters, at least if the term "gold tooth" in the following conversation means "gangster," as the experts believe:

But we gotta have the strength . . . [so] that when that Bob Morgan comes along and bids 71 County buildings that tomorrow he's got four gold teeth in front of him saying okay now that you've took all these buildings, where's all the men.38

This raises directly the question of the relationship between the senior racketeers, Avellino and Adelstein. Avellino was explicit in his view that he held his company as a franchise granted by Corallo, the family boss. Indeed, he saw that relationship as pervasive among those associated with racketes. In an earlier conversation with Richard DeLuca, another Lucchese family member, he recalled a conversation

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37 This probably refers to the division of payments between the Gambino and Lucchese families.
38 PCOC Hearings, pp. 693–694.
39 Ibid., p. 658.
with another racketeer associate who was in control of a union:

I’m saying what do you mean, the union is yours. He believes the union is his. . . . I’m gonna say, the union, nothing is yours, everything is the boss and we only got the privilege of working it or running it, unless you got a, something that is a legitimate thing that, ya know, that it’s yours, then they say well that’s yours. . . . I mean, I know Salem is mine in stock but I gave, I signed my life to you. . . . So really if I sign my life to you, my stock is yours but because you’re kind enough that you don’t make a demand on me.  

Avellino claimed to understand the relationship between the Gambinos and Adelstein:

They made a deal many, many years ago that no other union would come into the garbage and they’re honoring that deal . . . cause we (presumably the Luccheses) have a Teamster local that could come out here, Local 522 (New Jersey and Greater Metropolitan Area representatives for the Lumber Drivers, Warehousemen, and Handlers) and break his croller (sic) . . . but he’s the only game in town.  

However, there is no evidence to suggest that this was more than speculation on Avellino’s part. He may have been told this by the Luccheses boss, but, given his relatively recent introduction into the family, it is unlikely that Avellino was very authoritative on the matter.

All the principal carters saw the union as the critical instrument for controlling the carting market. Fleischer’s slackness in failing to unionize Morga, who took 71 county contracts from other PSI members, constantly ranked. Improved performance for the PSI, particularly its expansion to the residential market, could come only from aggressive unionization and control of that union through Adelstein’s power, derived from his presumed Gambino connections.

It is of some interest to speculate about Adelstein’s reluctance to expand Local 813 into the residential market. He may have been unwilling to enter a market that presented more political difficulties. All the factors that make the residential sector unattractive for a customer allocation agreement also are sources of potential problems for aggressive unionization. Large increases in pay and benefits must be borne by the individual householder, who is unable to shift them forward, as commercial establishments do. Householders are also more likely to complain in politically effective ways.

These are merely speculations. The fact remains that Local 813 did not enter the residential market and that Adelstein cooperated on only

39 PCOC Hearings, pp. 675–676.
40 PCOC Hearings, p. 678.
a limited basis with the colluding carters. This significantly restricted the effectiveness of the customer allocation agreement.

POLITICIANS

The last group involved in the operation of the various conspiracies consisted of local officials and politicians. Their role was peripheral, but there can be little doubt that the conspiracies worked more smoothly because of their participation. It was not a coordinated activity but a series of small and apparently unconnected favors. What was remarkable was the ubiquity of the favor-giving. It seemed to operate in almost every town in Suffolk County and also in county and state agencies.

The officials provided three kinds of favors: favorable rulings for the industry as a whole, coercion of dissidents, and nonenforcement of rules for favored members.

Industry favors. The most egregious example of an industry favor concerned the granting of a rate increase in Huntington. The carters were very concerned that the rate increase not become a partisan issue. Thus, they were seeking to ensure that both the Republicans and the Democrats on the town board would vote to approve the increase. However, a number of carters had applied for new licenses to solicit customers in Huntington at lower prices than those currently prevailing. To prevent them from coming in, Corrigan called a town official (Jo-Ann Raia) and asked her to delay the issuance of the licenses. Raia was told the real reason for the request and nonetheless agreed, without any fuss.

An effort was also made, through official intermediaries, to assure the votes of certain members of the board. After some time, that effort was also successful. The result was that the carters, through their association, agreed to provide some money for the party's campaign fund. As alleged in the state's indictment of the two town officials, the carters were to contribute to the Democratic party and certain candidates $800 in postage and $12,000 in monetary contributions. 41

Disciplining dissidents. The primary dissident, Robert, tried to win a number of government contracts, but he was repeatedly thwarted by the actions of officials. Two examples are described below:

1. Robert won the collection contract for a major county facility in 1982, taking it from one of the conspirators. The following

41 People of New York v. Arthur Romersa and Vito Biondo, Indictment No. 1476-84, Supreme Court of New York, County of Suffolk.
year he called the purchasing agent for the facility on a number of occasions requesting that he be sent the bid documents for the 1983 contract. The official never sent them, and Robert lost the contract.

2. A town was putting out some of its areas for bids. Robert had not operated in the town previously but wanted to submit bids on certain districts. The town official responsible for the bidding promised repeatedly to send him the specifications but never did so.

Favoring particular carters. In Huntington, random inspections were supposed to be made at the local disposal facility to verify that trucks were in compliance with local equipment rules. This had not been done for months. The PSI wanted to use inspections to harass certain carters. Local officials were asked to carry out an inspection but inform Corrigan once the day was picked. The PSI rapidly distributed this information to its members, so that they could avoid bringing noncompliant equipment to the facility on that day.

There was no evidence that the officials involved in helping to suppress Kubecka’s rebellion received payments for their efforts. In the case of the town bids, the official may simply have been opting for a quiet life, knowing that having Robert active in the town was likely to create tension, and even violence. Nonetheless, officials consistently behaved in ways that furthered the bid-rigging conspiracy.

The carters were politically active and intensely aware of their vulnerability to political decisions. A town could deprive them of their livelihood by deciding to use municipal pickup. It could greatly reduce the value of their businesses by going from “scavenger” collection to districts. The carters often needed approvals for rate increases. All of these decisions could be made at any time, so the carters were constantly in the market for political protection.

The one relatively direct payment on record was made to the Democratic party in Huntington. In return for obtaining the rate increase in the town, the PSI was required to mail some 4,000 pieces of campaign literature.

It was not surprising that the carters individually and jointly made substantial contributions to political campaigns. Newsday found in 1978 that the carters had contributed to a local political campaign, using a device that concealed the origins of the contribution during the campaign itself. After the election, the winning candidate voted for a large increase in rates.

In another case, Avellino was approached by a minor political figure who was soliciting contributions to the annual party dance. He asked
Avellino to buy 150 tickets at $125 per ticket. At the same time, he asked Avellino if he wanted a sanitation district created in the town, possibly involving one of the dissident carters. He said that he wasn't trying to be tough, just reminding Avellino what was at stake.

CONSEQUENCES

What was the result of all this collusion? The cost of garbage collection for commercial establishments was significantly increased, although we can only infer this. Data on the true prices paid by customers are not available, since it was not possible to do the close monitoring necessary to determine the actual prices paid.

There may be substantial discrepancies between the actual per-unit prices and those apparently paid. The carter can cheat customers in at least four ways: overstating the size of the container at the site, only partially emptying the container, emptying the container before it is completely full, or placing an unnecessarily large container on the site. Anecdotes from other areas suggest that all four methods have been used, although no information was available about their use on Long Island. 42

The result of such cheating is that data on the amounts paid by customers to their carters cannot be converted into unit prices, since there are no independent data on the quantity of waste being collected, and the cost of trying to obtain such independent data would be prohibitive.

Hence, we can only reproduce the analysis that was used to infer the cost of conspiracy in New York City. This analysis was based on the prices paid by carters when buying and selling customers. The justification for these transfers of customers is the claim that the carter has developed goodwill, a transferable asset. However, it is apparent from the complaints of customers collected in the investigation and recorded by Newsday in 1978 that the quality of service is not generally high.

Moreover, it would be surprising if high-quality service were provided, since the existence of the customer allocation agreement reduced the incentive for offering service of higher quality than was necessary to prevent aggressive search behavior by customers. The carters had an interest in ensuring that customers were not so unhappy that they frequently sought out alternative suppliers, however, because complaints about the existence of a customer allocation agreement were likely to be triggered if large corporations were dissatisfied with the

42 There was evidence of income concealment. One carter regularly offered customers a lower price if they would pay by cash rather than by check.
quality of service and found that they were unable to obtain competitive bids from other carteros. Even more than for the traditional monopolist, the optimal reward for an illicit cartel is a "quiet life" (Hicks, 1935).

This means that the cartel wanted to ensure that none of its members offered very low-quality service, which could have endangered them all. But the cartel may also have sought to prevent any member from offering noticeably better service than the others, since that might have made those customers dissatisfied and could have induced them to test the strength of the customer allocation agreement.

We have only one direct observation on this kind of behavior. A member of the PSI, in the residential sector, consistently provided low-quality service. This generated numerous complaints to public officials. One of those officials, an ally of the PSI leadership, passed on the complaints to the PSI. The association leaders were concerned about the threat posed by the complaints and forced the carter to resign from the PSI.

Let us return now to the estimation of the excess costs of garbage collection arising from the existence of the customer allocation agreement. As stated above, commercial customers were sold for 40 to 45 times the monthly revenues they provided the carter. To make our estimate conservative, we use the lower figure.

In a competitive market, what would the multiple be if the carteros were in fact providing high-quality service? In the New York/New Jersey study, it was suggested that a multiple of 10 was appropriate as an upper bound, based on the figure that apparently was used in the early days of the customer allocation agreement in New York City. It is also close to the figure that apparently prevailed in the residential market on Long Island in the early 1970s, when a relatively weak customer allocation agreement was in operation. It is likely, then, to be a generous estimate of the baseline multiple.

The differential in the two multiples is 35, enough to permit a rough estimation of the rents being extracted by the carteros from customers. We can calculate the increase in the capitalized value of the customers resulting from the allocation agreement. Since each carter can either sell the customers to another carter and invest the proceeds in equity or bonds or continue to service the customers, those who stay in the business must earn at least as much from doing so as they would from the other option.

Assume that the rate of return on relatively safe investments is \( r \) percent per month. Consider a customer yielding revenues of \$p per month. Let \$m be the price paid by a carter for a customer yielding \$1 per month (i.e., the multiple). The cartel price equals the
competitive price plus the rents the carter must earn on the increase in the capitalized value of customers arising from the customer allocation agreement:

\[ p^* = p + r([m]^*p^* - [m]p) \]

where asterisks refer to values with a customer allocation agreement, and those without an asterisk are the values that would prevail in a competitive market.

Assuming that \([m] = 10\), \(r = 0.01\) (an annual interest rate of 12 percent), and \([m]^* = 40\), we obtain \(p^*/p = 1.5\). That is, the price under the customer allocation agreement was 50 percent higher than that which would have prevailed in a competitive market.

This is probably a conservative estimate. It assumes that the operating costs of carteries were the same with customer allocation as with competition. In fact, the customer allocation agreement may have reduced the incentives of carteries to minimize costs. That would have the effect of further raising the discrepancy between the cartel and competitive prices. The only factor that might make the initial estimate an overestimate is the possibility that a significant proportion of profits were unreported for tax purposes, which would have lowered the rate of return that carteries needed to earn on the excess capitalized value of the customers.\(^{43}\)

The estimate of a 50 percent increase applies only to the commercial sector. In the residential sector, the multiple was between 20 and 25. Using the same formula and \(m^* = 22.5\), we obtain \(p^*/p = 1.15\); i.e., prices in the residential sector were 15 percent higher than they would have been in the absence of a customer allocation agreement.

We do not have an estimate of the base revenues, since there is no centralized registry that provides an estimate of even the total number of trucks, let alone the revenues generated. Estimating total industry revenues and the share of those revenues that can be allocated to excess profits is important because it would enable us to determine the share going to racketeers. The absolute amount seems to have been about $400,000, shared equally between the Gambino and Lucchese families.

We assume that the industry had a total of 500 trucks, taking the Suffolk County 300 as representing half the total for the two counties and allowing for overlap of one-third, and that they were divided equally between commercial and residential markets. We also assume, using New York City and New Jersey figures, that the average com-

\(^{43}\)Income concealment is not a cartel function. Carters may conceal cash customers with or without a conspiracy.
mercial truck generated a total of $125,000 in revenues in 1986. Commercial collection revenues in 1984 then totaled $31.25 million, of which $10.4 million was assigned to the customer allocation agreement. Residential trucks generally earned less, say, $100,000. If prices were 15 percent higher than they would have been with competition, the $25 million in revenues generated by residential collection included $3.2 million in excess profits.

This yields a total of $13.6 million in returns to the customer allocation agreement in 1984. It should be clear that this is a very rough estimate, particularly since the base estimate of total revenues is built on so many assumptions. But the true figure is not likely to be less than $5 million, suggesting that the prime beneficiaries of the agreement were the carters themselves, rather than the racketeers.

The other potential beneficiary of the agreement was the union, including both members and officials. The existence of the customer allocation agreement permitted the union to make higher wage demands, just as Teamsters were able to obtain high wages and benefits under the national master agreement when the interstate trucking industry was subject to ICC regulation (Moore, 1978). The discussion among the carters in preparing for preliminary negotiations with the union in 1983 suggests that they believed the union did bargain aggressively, despite the ties between its leadership and the Gambinos.

Union officials benefited both from the higher wages and benefits, which provided a more substantial base for their own salaries and benefits, and from other consequences of the agreement. The union organizer, Fleischer, certainly received monies for not enforcing the union wage scale at some companies. Presumably, he also received benefits from enforcement actions on behalf of the conspiring carters, though no direct evidence of that was available.

CONCLUSION

What does this add to our understanding of racketeering in legitimate industries? Two points seem to deserve emphasis: the self-sustaining nature of the customer allocation agreement and the stability of the cartel.

Independence

The self-sustaining nature of the customer allocation agreement is remarkable. The carters comprised a large-number cartel, or perhaps a
set of small-number cartels with some overlap, which was able to maintain discipline without a great deal of external assistance.

The racketeer and union roles were certainly not trivial. The conspiring carters saw the union as central, and clearly it had an important role historically. But union officials pursued their own interests in the period with which we are dealing. A corrupt union official provided some support but was unwilling to take any risks and, more important, was able to resist the carters' demands that he take a more aggressive role.

The racketeers, except for Avellino, were even more remote from the activity. The Gambinos and Luccheses were known to be involved, and Avellino's ties to the Lucchese boss were a matter of considerable interest. But there was no suggestion that racketeers extorted individual carters directly, as they had in the past. Avellino collected from some carters for payment to the two families. That appeared to confer a benefit on those who chose (or were permitted) to make payments. However, it was never possible to determine precisely what benefit was received. Presumably it related to how much assistance the carter received in disputes with others about property rights or which contracts he received in the allocation of bids, at least when new contracts were let. But this is a matter of speculation.

Public officials also played some role in maintaining the cohesion of the cartel, although there is nothing to suggest a centrally directed political conspiracy. Rather, the cartel, through the vehicle of the carters' association, was able to purchase the services of the low-level officials necessary to impose sanctions on those carters who defected. But these politicians were simply individuals who turned out to be willing to sell illicit services. In at least one case, the sale was on behalf of a party organization, but again there is no reason to believe that it was a decision involving a large group of individuals within the party.

The difficulties the carters experienced prior to the formation of the PSI are instructive. The outbreaks of violence reported from time to time seem to reflect problems in maintaining cohesion. Some of those problems may have arisen from interfamily conflicts, or at least lack of interfamily coordination within the New York Mafia. Three families have historically had an economic interest in the Long Island carting industry, although the Columbo presence seems to have become relatively unimportant. The fights leading to the killings of carters and putative union officials may have resulted not from failures of commitment to the cartel by carters, but from efforts of different outside groups to obtain larger shares of the cartel revenues.

The eventual dominance of the Lucchese family was probably the result of the fact that Avellino, whose ties were to that family, proved
such a charismatic figure within the industry. Others talked of him with a respect that did not seem to be explained solely by his ties to the Luccheses. In an industry whose entrepreneurs were not notably articulate or dynamic, he stood out.

The strength of the Lucchese interest is surprising because the family had very weak ties with the union. The union leader's association was with the Gambinos, although, as Avellino and his Lucchese friends said, the Gambinos seemed to "own" him but not control him.\footnote{Adelstein's original connection was with the Luccheses. However, there were references to the fact that, after a marriage between children of the two leaders, Adelstein "drifted" over to the Gambinos.}

Stability

As in New York City and New Jersey, the involvement of racketeers in the carting industry on Long Island is well known. In the other two jurisdictions, that knowledge led to the imposition of comprehensive, though ineffective, regulation. On Long Island it led, until the OCTP investigation, only to relatively weak governmental responses.

It was argued in the earlier study that the reputation of being racketeer-dominated was very valuable for an industry. It ensured that customers did not complain aggressively, noncartel firms did not attempt to expand their market share (under the umbrella of cartel pricing), and new firms did not enter. All these promoted cartel durability.

The Long Island carting market bore out this conclusion. There was almost no evidence of active consumer complaints, noncartel raids on cartel customers were relatively rare (Kubecka's activities surely affected less than 1 percent of the total market), and there was no entry by new firms.

The same situation also prevailed in the mid-1970s, when the cartel was at its weakest. \textit{Newsday} published numerous articles indicating that the efforts to organize another union represented a split within the ranks of the carteri. Yet that induced no entry of new firms or any other significant change for the industry. This probably derives from the fact that not conflict does not clearly reduce the dangers incurred by those who would challenge existing arrangements.

A second kind of stability also merits comment. The division among the Mafia families in New York survived a major change in the distribution of power within the carting industry without any major conflict. The growth of the Lucchese interests did not disturb existing arrangements. Monies from the carteri were split evenly, in what appeared to be a time-honored formula. Even when Avellino and his associates
were discussing their dreams of a new union local, under their control, it was clear that any additional monies provided to Mafiosi would be split evenly between the two families.

On the other hand, part of this stability seemed to derive from the relative passiveness of the organized crime leaders involved. The conversations between Avellino and Corallo never suggested that Avellino was under great pressure to increase the amount turned over to the families, which was a small share of what we estimate to be the returns from the conspiracy. The Gambino leader (Castellano) was once said to be seeking a doubling of his revenues over an unspecified period. But there was certainly no suggestion that the amounts were intended to be the maximum the conspiracy could sustain.
III. OTHER INDUSTRIES, OTHER RACKETS

To understand the general public policy problem with which we are dealing, it is useful to consider some other industries in which it has been established that racketeers have considerable influence. The three industries discussed here (stevedoring, casino gaming, and garment manufacturing) illustrate the range of ways in which racketeers may involve themselves in the operation of an industry. Developing a general policy for dealing with such a variegated problem may be very difficult, as discussed in Section IV.

STEVEDORING

The 1954 film On the Waterfront established a firm image of racketeer influence over the workings of the docks in New York. That film was produced during a period when the problem became a matter of public scandal. The public interest led to notable reforms, with the New York State Crime Commission being the major institutional actor. The creation of the New York-New Jersey Waterfront Commission was the most important long-term product of those reforms.

Twenty-five years later, the Department of Justice announced the results of a major long-term investigation of the docks in a number of East Coast ports, known as Operation "Unirac" (for union racketeering). That investigation established that even in the late 1970s, racketeers continued to play a very important role in the operation of the docks, not only in New York and New Jersey, but also in Savannah, Miami, and Norfolk. Federal authorities make no claim that the success of Unirac, which led to the conviction and incarceration of some major union and racketeering figures, eliminated the influence of racketeers. As FBI Director William Webster said:

We have obtained convictions of most of the major organized crime figures associated with the industry problem. But as Senator Chiles pointed out before, they have their surrogates and in some areas it is business as usual.¹

Nonetheless, a comparison of the details of the problem in the early 1950s and more recently shows that there has indeed been a substantial change. The racketeer influence has become highly institution-

alized, almost formalized, but the costs of that influence have been spread more widely than before, and some of the most pernicious aspects, those related to the exploitation of dock laborers, have been mitigated.

The New York Docks Around 1950

For our purposes, it is unnecessary to describe the complicated history of investigation and prosecution around the New York docks between 1949 and 1957. What that flurry of investigation found is readily summarized by the following excerpts from the Table of Contents of the Fourth Report of the New York State Crime Commission (1953):

I. UNHEALTHY CONDITIONS EXIST IN THE STEAMSHIP AND STEVEDORING INDUSTRY
   A. Many Instances of Collusion Were Shown to Exist Between Officials of Steamship and Stevedoring Companies on the One Hand and Union Officials on the Other
      (1) Improper Cash Payments Have Been Made to Union Officials by Stevedoring Companies for "Services Rendered" or for Goodwill
      (2) "Phantoms"
      (3) Various Occasions Were Used by Employers to Make Payments to Labor Leaders
   B. Corrupt Payments Were Made to Steamship Officials by Stevedores
   C. Corrupt Conduct on the Part of Some Stevedores is Further Indicated by Huge Unexplained Cash Disbursements and by the Alteration of Books and Records to Conceal Payments to Union Leaders and Others

II. THE ILA AND ITS COMPONENT LOCALS HAVE FLAGRANTLY DISREGARDED THE WELFARE OF THEIR MEMBERS AND THE PUBLIC
   A. The Operations of the ILA
      (1) The ILA Has Failed in its Obligations as the Bargaining Agent of the Dock Workers
      (2) Ryan and Many ILA Organizers Are Demonstrably Unfit for Their Posts
      (3) The ILA Has Failed to Supervise its Locals
   B. The ILA Locals, Their Control and Administration
      (1) Known Criminals Are in Control of Important ILA Locals and of Key Waterfront Areas
      (2) Criminal Control of ILA Locals and Waterfront Areas Produce Crime. Serious Instances of Extortion Were Established
      (3) The Financial Affairs of Most of the Locals Have Been Loosely and Irresponsibly Conducted, Funds Have Been Misused and Records Have Been Destroyed
      (4) Undemocratic Procedures Have Helped to Keep Unscrupulous Labor Leaders in Power
      (5) Creation of Unnecessary Locals is Used to Perpetuate Unfit Leaders in Power and Constitutes a Drain on Dues Paid by the Longshoremen

III. CORRUPT LABOR LEADERS USE THEIR OFFICE FOR THE PROMOTION OF PRIVATE BUSINESS INTERESTS, OFTEN ILLEGAL
IV. THE SHAPE-UP AND THE FORCING OF UNDESIRABLE HIRING FOREMAN ON THE EMPLOYERS ARE BASIC EVILS
   A. The Shape-Up Is a Vicious and Antiquated System
   B. The Hiring Foremen Are Often Ex-criminals Forced Upon the Employer by Union Officials

V. THE PUBLIC LOADING RACKET IS A SERIOUS DRAIN ON THE PORT
   A. The Pier Operators Have No Control Over Loaders and Are Forced to Supply Services Without Charge on the Threat of Work Stoppages
   B. The Dual Employer-Union Status of the Public Loaders is An Evil
   C. The Public Loaders Threaten to Expand Their Depredations Beyond the Piers
   D. The Loaders Have Used Coercion and Extortion
   E. Although Collecting Millions of Dollars Annually, the Public Loaders Keep Practically No Books and Records
   F. The Proceeds from Public Loading Are Largely Siphoned Off by Union Leaders and Known Criminals
   G. Public Loading Has Resulted in Serious Loss to the Port and Shipping Industry

VI. THE PRESENT WATCHMAN SYSTEM ON THE PIERS IS INEFFECTIVE AND OPERATES TO THE DETRIMENT OF THE PORT
   A. Control of the Port Watchmen’s Union by ILA Leaders Has Worked to the Disadvantage of the Watchmen
   B. There is Complete Absence of Union Democracy in the Port Watchmen’s Unions
   C. Thefts in the Port Cost the Consumers Millions of Dollars Every Year
   D. The Watchmen Are Discouraged From and Even Reprimanded for Reporting Thieves
   E. The ILA Has Opposed Efforts by Steamship Companies to Improve the Watchman System

In effect, the International Longshoremen’s Association (ILA) was seen in the 1950s as a vehicle for looting all participants in the longshoring industry: carriers, shippers, union members, truckers, and stevedores. The ILA was itself a decentralized organization whose president exercised relatively weak control over many of the more aggressive locals.2 Those locals were in the hands of criminals. Senior officials of the ILA and the local officials made their separately corrupt bargains with the various other industry participants.

Of particular interest here is the role of broader criminal organizations in the operation of the longshoring industry. Some very important racketeers were significantly involved. Perhaps the most notorious was Anthony Anastasia (brother of the fearsome Albert), a major figure in the Genovese family, who controlled six union locals in Brooklyn. Another prominent Mafioso was Anthony Strollo, best known as Vito Genovese’s chauffeur, who controlled the U.S. Army Linden pier in New Jersey (Hutchison, 1970, p. 101).

2See Block (1962, p. xv) on the assumed centrality of the organization.
However, the control was by no means restricted to the Mafia and its associates. In that period, many of the docks were served by predominantly Irish laborers, and the associated criminals were also Irish. Indeed, the division here ran along geographic lines. The Manhattan docks were held by the Irish, the rest by Italians. The criminal gangs involved represented those two ethnic groups, and the ILA was content to endorse that division.

Bell (1960), in an insightful essay on racketeering on the docks, argued that the problem began with the extraordinary pressures on the use of space around the New York docks. No direct railroad lines went to the docks, and trucks faced very congested streets there. This had led to the creation of the "public loader," whose function was to move freight from the docks, after it had been handled by longshoremen, to trucks, where it was handled by members of the Teamsters union. Bell identified the public loader function as the point from which racketeers could extort the steamship and trucking companies, since control of public loading could be used to impose high costs on both sets of participants. It was certainly true that racketeers had taken control of this function and had extorted large sums from both truckers and steamship companies.

Nonetheless, Bell’s hypothesis has been contradicted by events. The public loader function has been abolished, yet racketeers remain in the industry. Since the structure of opportunity has changed, so has the function of racketeers. Bell attributed the unique strength of racketeers in New York Harbor to the unique characteristics of that waterfront, but racketeers appear to perform similar functions in a number of Eastern ports.

The Contemporary Stevedoring Industry

Following the revelations of the New York State Crime Commission and other investigative bodies, major reforms were implemented on the waterfront. The most significant were those associated with the formation of the Waterfront Commission.3

The Commission is a bistate agency, with members appointed by the governors of New Jersey and New York, representing recognition of the reality that the docks of New York and New Jersey form a single market. Efforts to regulate one more stringently than the other would merely result in the diversion of traffic to the less stringently regulated.

3Details on the Commission are given in Jensen (1974, Chap. 5) and Hutchison (1970, Chap. 23).
The Commission has brought a great deal of order to the confusion of the waterfront labor force. In particular, it has limited the use of casual labor on the docks, which had provided one of the major sources of corrupt income for union officials in the past. Discretion over who was hired each day permitted officials to extort workers. Since 1954, all persons seeking work on the docks have been required to register, and they must maintain a regular commitment to such work in order to continue their registration. The register is kept by the Commission, which also furnishes employment centers to ensure the integrity of the hiring process. The Commission also disbands from union office persons who have been convicted of serious criminal charges.

The other major area of Commission responsibility is ensuring that reasonable procedures are followed to minimize theft from the docks. Registration is required not only for those persons and firms immediately involved in the loading and unloading of cargo, but also of firms that hold the cargo in inventory, a notorious leakage point in earlier eras. Commission officials inspect and test the security arrangements of port contractors and may fine or suspend those caught acting irresponsibly.

These measures have reduced the incidence of racketeering activities. There is little, if any, abuse of dock workers by union officials. Indeed, dock workers are now exceptionally well paid and cared for. Their guaranteed annual earnings in 1983 amounted to $29,120 (Scopetta, 1983, p. 6). The level of theft in the port seems to have declined to levels comparable to those in other, similar ports, whereas it was previously claimed to be three times as frequent in New York-New Jersey.

The extent and locus of racketeering on the New York waterfront have clearly changed over the last 30 years. However, it is also clear that racketeers maintain their influence within the ILA locals. A number of racketeers have been senior officials of the major locals, while others have exercised influence without formal office. The rents that racketeers obtain from this power are extracted directly from the ship companies, stevedoring firms, and suppliers.

The power of the racketeers rests on their ability to impose excessive costs on companies that fail to make payments to them. Union power can readily be used to dress up extortion as the legitimate expression of labor concerns. A slowdown may be justified as an attempt to obtain particular conditions for union members, even though its true purpose is the extraction of payments to racketeers and their associated officials.

The Waterfront Commission lacks the power to deal with this problem. It has exerted its investigative capacities, perhaps raising the
risks associated with certain of these schemes. Clearly, it is regarded as an irritant by participants in the extortion efforts. But equally clearly, those risks are not large enough to prevent an apparently routine extortion of the major entities in the industry. Regulation has not prevented racketeers from making large sums of money from the waterfront industry.

The Unirac investigation revealed a great deal about the fabric of corruption and racketeer influence in the 1970s. We shall focus here on the role of Anthony Scotto because he was so prominent in the industry and figured so centrally in the schemes revealed by the prosecution.

Scotto had been a senior official in the ILA in New York since 1963, when his father-in-law, Anthony Anastasia, the head of Local 1814 in Brooklyn, died of cancer. Although he was identified as a capo in the Gambino family in 1968 by the U.S. Senate, Scotto had continued as the most prominent political figure among the dock workers in New York. His political power was indicated by his presentation of two former mayors of New York (Robert Wagner and John Lindsay), Governor Hugh Carey, and AFL-CIO Secretary-Treasurer Lane Kirkland as character witnesses at his trial. He raised large sums of money for major Democratic politicians, including President Carter.

As a result of his fund-raising activities, Scotto acquired considerable influence. Three successive New York City Commissioners for Ports and Terminals were reputedly his nominees. Governor Carey nominated Scotto's personal lawyer as the New York State member of the Waterfront Commission, although political pressure led to the withdrawal of that nomination. It is not surprising that Scotto had extraordinary power within the stevedoring industry.

His reputation for access to political as well as racketeering resources produced a great deal of income. According to a 1981 Senate investigation, "At least four companies on the Brooklyn waterfront made regular payments or 'tribute' payments to Scotto merely because of his power, without seeking any particular assistance" (U.S. Senate, 1981, p. 251). His assistance, however, was sought by companies for a variety of tasks: preventing the continuation of a workers' compensation fraud scheme (not initiated by Scotto), the allocation of repair business by shippers, and the allocation of unloading business by carriers. Scotto was apparently able to deliver on all these commitments. His reputed involvement with the Mafia was certainly an aid to the suppression of the fraudulent workers' compensation scheme, while the other tasks may have been accomplished more as a result of his reputed political power.
Scotto was the most prominent racketeer involved in these activities, but he was by no means the only one. From 1974 to 1977, the New Jersey State Police, using a businessman associate of some racketeers as their point of introduction, ran an undercover operation known as Operation Alpha (U.S. Senate, 1981, pp. 349–383). Alpha was the name of a trucking company in the Newark Port area that had contact with three different groups within the Mafia. Those groups arranged for Alpha to avoid unionization, despite the fact that it was dealing with unionized customers and was in a unionized sector of the industry. Business from some firms, controlled by gangsters, was given to Alpha. Other firms were persuaded to deal with Alpha in return for union peace. Payments were made by Alpha to these racketeers in a number of ways: Personal services were paid for out of company funds, money was siphoned off to dummy corporations, and phantom employees were included on the payroll. None of the racketeers involved in these activities were formally affiliated with any registered company or union. However, union officials from various locals were willing to meet with the racketeers and accept their instructions for dealing with Alpha.

Similar incidents emerged in the investigation of the Miami waterfront, to which a number of disbarred New York ILA officials had moved. Racketeers were instrumental in the maintenance of union peace and hence in the allocation of certain contracts, as well. There was a territorial division along the East Coast in terms of racketeer influence, with the Miami group controlling matters south of Norfolk and the New York groups controlling Norfolk and ports north of it.

Racketeer control on the East Coast waterfront obviously takes a very different form from that found in the solid-waste collection industry. On the waterfront, it is not direction of an industrywide conspiracy but the extortion of individual companies that provides the profits from union control. The ultimate cost of the extortion in both cases may be borne by the final consumer, but the stevedoring, shipping, and terminal companies do not receive gains equivalent to those received by the carters. Payments to the racketeers merely redistribute industry profits. The anecdotal evidence from Unirac and Alpha suggests that racketeers have an understanding of the value of the services they provide (such as assured contracts and union peace) and attempt to extract all profits available from them. This contrasts with the

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4 Two of the groups were branches of the Genovese family, one run by Tino Fiumara, the other by John deGiglio. The third group was a branch of the Bruno family run by an incarcerated capo named di Norscia. Interesting details are provided in the Senate hearings on the intergang dealings and the understanding of property rights in the system.
small share they take (at least directly) from the profits generated by the solid-waste collection cartel.

Racketeers and Shippers

In recent years, the principal employers' association in the industry, the New York Shipping Association (NYSA), has acquiesced to a number of actions by the ILA which have materially increased the costs of doing business in the New York port. It is plausible, though certainly not more than that, that the NYSA's behavior can be ascribed to the influence of racketeers over the ILA.

The problem centers around the guaranteed annual income (GAI) which is part of the contract negotiations between the ILA and the NYSA. The GAI was originally set up in 1967 to reimburse longshoremen for the loss of jobs arising from containerization. It provided that every worker then eligible was to be guaranteed an annual income (calculated on a 40-hour-week basis, together with many fringe benefits) as long as he was willing to work in the industry. From a modest beginning, this has become a major element of total freight-handling costs in the port; direct GAI payments amounted to over $79.7 million in the year ending September 30, 1983. In effect, almost 32 percent of the total work force of 8,400 received full pay without any work (Scopetta, 1983).

Clearly, efforts to reduce the cost of the GAI system could yield important benefits to the firms using the New York port. Though each firm is, to a first approximation, equally penalized by the current system, all of them are handicapped in competition with shippers and carriers using other ports, which have much less generous GAI plans. Total fringe benefits, of which GAI is the major component, amounted to $240 per 40-foot container in New York in 1982, compared with $40 per container in the port of Baltimore.

Yet the NYSA has consistently supported ILA efforts to prevent the Waterfront Commission from adopting policies that would lower total labor costs without harming the rights of any current ILA members. For example, in 1978, the port had a shortage of checkers (i.e., longshoremen who tally the cargo rather than physically move it). For older workers, checking is probably a very desirable job. The Commission, faced with a chronic excess of longshoremen on the register, recommended that the current longshoremen be offered the opportunity to be reclassified as checkers, remaining eligible for all their existing benefits.

Understandably, the ILA opposed this, preferring to open the registers and admit nonregistered workers to become checkers, eligible for
union membership and all GAI benefits. Astonishingly, the NYSA supported the ILA; the two jointly appealed the matter all the way to the Supreme Court, where they were denied cert. The lower courts upheld the Commission’s right to allow the transfers and pointed to the substantial benefits to the port from allowing these to occur. A number of other instances of similar NYSA behavior are cited in Scopetta (1983).

One explanation for this behavior on the part of the NYSA is the fear of opposing the racketeering elements that have influence in the ILA. The potential costs of labor difficulties that these racketeers engender may well be higher than the costs of supporting ILA stands against the Commission. Any set of union leaders could, of course, carry out the same harassment, but in doing so they would need to concern themselves with the responses of union members. Racketeers influencing the union do not have to concern themselves about member responses, at least not to the same extent.

The incentives of the racketeers for opening the books for new registrants are high. The registrants will become highly paid workers with a lifetime guarantee of very generous benefits. While registrants may be barred for possession of criminal records, thus preventing racketeers from putting their junior associates on the books, the racketeers may be able to sell off the right to register.

This is obviously a very speculative explanation. The NYSA behavior may simply reflect fear of labor unrest consequent upon adversary stands with respect to Commission rulings. However, the extraordinary costs the NYSA has accepted through support of ILA positions suggests that a fear of other consequences is plausible.

It does not appear that racketeers attempt to restrict entry into the major segments of the business. Thus, they confer no benefits on the current firms, as they do for the carters, unless the very presence of racketeers serves to discourage entry. This might occur if few firms are willing to deal with racketeers or if potential entrants perceive the results of such dealings to be depressed profits. Again, however, the anecdotal evidence from the investigation points to a good deal of competition and new entrants in the different segments of the business.

CASINOS

The taint of organized crime involvement is probably more pervasive in the casino industry, at least in Nevada, than in any other industry. Large-scale casino operation has its origins in organized-crime investments, starting with the building of the Flamingo Casino in 1946 by
Bugsy Siegel. There has been a continuing flow of convictions of organized-crime figures for their involvement in the Nevada casino industry. When the Governor of New Jersey inaugurated casino gambling in Atlantic City in 1978, he made much of the claim that the state would regulate the industry to keep organized crime out.

In fact, it is not clear what role organized crime plays in the contemporary casino industry. The historical explanation for its involvement is clear, and there are some important institutional links that could account for connections to certain casinos. But it is quite plausible that organized crime has little control over the industry generally.5

Nevada

In 1943, Siegel, a prominent former bootlegger with close ties to a number of major organized crime figures, including Lucky Luciano, Frank Costello, and Meyer Lansky, persuaded a number of his colleagues to invest in the construction of the first major hotel casino in Las Vegas. The Flamingo opened in 1946, but cost overruns had led to a suspicion that Siegel was defrauding his partners; he was shot and killed in California in 1947.

At a time when gambling was a highly suspect activity on moral grounds, regardless of its legal status, it was not surprising that only criminal groups were able to find capital to fund major investments. Presumably, such groups were responsible for many of the early projects.

The industry acquired a modicum of respectability in the late 1960s, however, and the character of investors and operators changed (Skolnick, 1978, Chap. X). The entry of Howard Hughes, not then as bizarre a figure as he later became, provided the first important inflow of respectable capital. Nevada changed its laws in 1969 to permit corporate ownership of casinos; until then, every person with an equity interest, no matter how small, had to be licensed by the Nevada Gambling Commission. Major hotel corporations began to invest; Hilton, Holiday Inn, and Sheraton, among others, acquired or built major casinos.

The entry of publicly held corporations potentially changed incentives for criminal activity in the industry. A great deal of the early racketeer activity centered around the "skimming" of earnings. Earnings of the casino were removed in the form of cash and were paid to racketeers who were probably the providers of the original capital,

5This section draws heavily on Skolnick's (1978) excellent study of Nevada casino regulation.
although not registered as owners or operators. The income was unreported and untaxed. In effect, the true owners of the casino stole from the government.

A public corporation has no positive interest in unreported income. Managers who skim deprive the true owners of the casino of their returns. Clearly, managers have an incentive to skim in both cases, but when the casino is privately owned by racketeers, they are skimming on behalf of their nominal superiors and may share in the proceeds. When the casino is publicly owned, they are skimming from their superiors.

Before we analyze the actual record of racketeer involvement, it is important to describe the role of the Central State Teamsters Pension Fund. Accusations have long been made that this fund is controlled by organized-crime figures; its directors, until the intervention of the Department of Justice in 1978, were nominated by the leaders of locals, frequently themselves organized crime associates. A series of undercover investigations established the credibility of the government's assertions of racketeer control.

The Central State Teamsters Pension Fund has made large investments in Las Vegas casinos. By 1976, a total of $269 million (of the fund's total assets of $1.4 billion) was "loaned" to Las Vegas casinos. Many of the individual transactions were highly suspect; one of the most notorious involved loans of $146 million to a young entrepreneur, Allen Glick, for the purchase of five casinos, despite the lack of any evidence of entrepreneurial skill or industry knowledge on Glick's part. It is widely believed that these loans were made to permit the same organized-crime figures who control the fund to obtain control of the casinos. In this view, a weak figure such as Glick ensured that the racketeers would be able to skim with impunity.

A recent federal criminal case in Kansas City verified that these suspicions were correct. Glick testified that he had been ordered to let certain gangsters steal money from the casinos that he, in theory, owned. His testimony, possibly self-serving, was that these orders were backed with explicit threats of violence.

Skolnick summarizes the argument for Teamster-racketeer involvement in six linked propositions: "(1) The pension fund's investment policy; (2) coupled with organized crime domination of Teamsters union locals nominating trustees to the fund; (3) generated kickbacks to those controlling the fund; (4) who in turn controlled casino management to permit kickbacks involving (5) skimming and embezzlement of casino revenues (6) deposited with organized crime families who influenced the nominations of the trustees" (Skolnick, 1978, p. 299). Of course, this also suggests that the racketeer control, if it is
solely concerned with embezzlement and skimming, will be particularly strong in casinos with loans from the fund. There has indeed been a significant flow of convictions involving just those casinos. Most other casinos where significant racketeer influence has been found went into operation prior to Howard Hughes's entry, i.e., before casino investment was respectable.

The casino business has some aspects that may make racketeers more efficient than nonracketeers as operators. One is credit extension. Debts incurred for gambling are not enforceable in a court of law, yet the casino business is very dependent on the extension of credit to high-stakes gamblers. Racketeers are more likely to be able to collect from delinquent debtor-players than are people who lack the reputation of being able and willing to employ violence. Racketeer-owned casinos, if they can convincingly convey their racketeer association to debtors, will have a smaller bad-debt ratio than will other casinos. Indeed, a legitimate owner of a casino might want to create an association with a racketeer precisely to reduce his bad-debt problem. In theory, he could make payments to the racketeer and still be better off, even if the racketeer provides no service.

In fact, however, the bad-debt problem does not seem to be a very significant factor. The total bad debts for Nevada casinos amounted to only $5 million in 1984, compared with total gaming revenues of $2.5 billion. Nor is it evident that publicly owned casinos, presumably without racketeer taint, have more of a bad-debt problem than do others with whom racketeers are more plausibly associated. The exchange of credit information among casinos, which means that bad debts at one casino may lead to termination or restriction of credit at all other casinos, is possibly an important explanatory factor. True gamblers may rate casino blackballing as a serious sanction.

It is also possible that much of the credit extension and collection responsibility rests with the operators of junkets—entrepreneurs who bring groups of high rollers to individual casinos. These junket operators, not subject to the same stringent licensing as casino operators, frequently have racketeer associations. Publicly owned casinos may thus be able to solve the problem in effect by delegating the racketeer association to their agents.7

Employee discipline may also be an advantage of racketeer operators. All casinos invest heavily in the monitoring of employee theft.

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6New Jersey is an exception to this rule. The Nevada state legislature recently enacted a law to make such debts court-enforceable, but its constitutionality has been challenged and not yet resolved.

7This is entirely speculative; there have been only a few cases filed against junket operators for collection through intimidation.
Nonetheless, significant sums are still stolen by employees. A casino whose senior management is known to be willing to use violence as punishment may incur lower theft losses.

Despite all of this, it seems reasonably clear that racketeers' deep involvement in the casino industry of Nevada does not amount to "control." Entry is not restricted. No effort is made to set prices. Individual casinos are subject neither to uniform extortion nor to individualized extortion of the type present in the stevedoring industry of the East Coast. There may be some union corruption, with racketeers receiving benefits from that corruption, but this is not the central source of revenue for racketeers involved in the industry. It is a separate source of power and funds.

Structural changes in the casino industry are probably reducing racketeer involvement, as may be the government's persistent, and apparently productive, prosecution of many hidden-interest and tax-evasion cases against the racketeers. The weakness of casino unions may also be a significant factor.

Nevada is not a hospitable state for unions. Efforts by the Teamsters, for example, to organize in that state have been unsuccessful. Nevada judges are willing to impose stringent restrictions on striking workers, which the police are thought to enforce quite aggressively. Only one union has acquired a significant influence over the casino work force, the Hotel Employees and Restaurant Employees International Union (HEREIU). At the national level, this union has been frequently tarred with the racketeering brush (see President's Commission on Organized Crime, 1986). Congress has held extensive hearings on the subject of its pension and benefit fund practices (U.S. Senate, 1981) and has found that many of the major locals, including the Las Vegas local, have given contracts for insurance, medical, and dental services, etc., to the nominees of racketeers. Senior officials have been investigated for tax evasion and ties to racketeers. The HEREIU is generally cited as one of the four most corrupt unions nationally, along with the Teamsters, Laborers, and Longshoremen's.

Yet, despite the ties between racketeers and union officials in the Las Vegas local (one of whose senior officials was murdered as part of a factional dispute), there is little to suggest that the union is an instrument for influencing the casino industry. No indictments have been brought against union officials or their racketeer associates for efforts to influence or extort the casinos. Wage negotiations have been quite adversarial, with a long strike in 1984 resulting in modest concessions by the casinos.

This is somewhat surprising in light of the extortionate power that the union has with respect to casinos. A strike imposes very high costs
on a casino, which is a capital-intensive operation. It may also result in significant loss of goodwill with individual customers, for there is no way that the casino can stockpile, so to speak, as manufacturers do in the face of a strike threat.

There are at least two possible explanations for the slight importance of unions for racketeer power in the casinos. First, Nevada's government, with its tradition of hostility against unions, may make it difficult to call effective strikes. Second, it is possible that racketeers with interests in casinos can dissuade their colleagues with interests in the unions from imposing losses on them. However, it is important to note that many major casinos are probably not racketeer-controlled, and this explanation would not hold for them.

New Jersey

The New Jersey casino industry (limited to Atlantic City) was established after a statewide referendum in which concerns about organized crime involvement in the casino industry were at the forefront of the debate (Dombrink, 1981). An extraordinarily elaborate set of controls was set up precisely to minimize the possibility of racketeer influence in any part of the industry. A major battle that erupted in the Philadelphia Mafia family in the late 1970s centered on the family's role in the emerging industry. Fairly intense scrutiny by state investigative agencies, yielding a variety of scams against the casinos by employees and customers, has shown only modest evidence of racketeer influence. Only the casual granting of credit to racketeers constitutes a serious continuing breach in the casinos' independence from organized crime.

It is not difficult to account for the apparent differences between Nevada and New Jersey in this respect. The racketeer involvement in Nevada has its origins in the early financing of casinos, itself a function of the moral pariah status of legal gambling before about 1970. By the time the New Jersey industry came into being, conventional financial institutions were willing to provide loans and major publicly owned hotel and entertainment firms were willing to invest in casinos.

New Jersey has a complex regulatory apparatus, which requires licensing and full financial disclosure not only by the casino operators but by all individuals and firms who deal with casinos. The control of unions is the most controversial element of this regulatory policy and is being contested in court, the unions arguing that federal regulation preempts the state's efforts to impose additional qualifications on
union members and office-holders.\textsuperscript{8} It appears that some of the major unions in New Jersey are dominated by racketeers (U.S. Senate, 1981), in particular, members of Mafia families in Philadelphia and New York. However, the consequences of this situation for casinos, as well as the assertion that it is a result of the union's involvement in the casino industry, are quite unclear. Certainly, no peculiar consequences for the casino industry have been demonstrated, and there are many other unions in New Jersey that have similar problems of racketeer influence.

It is interesting to note that the first three licensees in New Jersey (Resorts International, Caesar's World, and the Bally Corporation) have all been accused of racketeering connections in the past. For Resorts and Bally, the accusations are somewhat aged, and the Casino Commission (the licensing authority) declined to follow the Division of Gaming Enforcement's recommendations that permanent licenses be denied, essentially for that reason. In the case of Caesar's World, the accusations were more recent, though less cogent, and the Commission ruled that the two largest shareholders had to divest themselves of the stock in order for the license to be granted. After court proceedings, that order was upheld. No evidence has been produced to date that any of these three companies operates its casinos any less honestly than do other, less tainted licensees.

In summary, the racketeer influence in the casino industry appears to be opportunistic and limited. As in the waterfront industry, there is nothing to suggest that racketeers have attempted to restrict entry into the industry or to influence prices. The primary victim of their presence has been the U.S. Treasury, although some casino operators may have lost income, and certainly respectability, as a consequence of racketeer involvement.

\textbf{GARMENT MANUFACTURING}

The garment industry is as notorious as the others we have examined, in terms of racketeer involvement. Numerous cases have been made over the years against major racketeers for illicit involvement in the industry. For example Johnny Dioguardia, a prominent member of the Lucchese family, received payments from a number of garment manufacturers in return for ensuring labor peace; his convictions on such charges spanned a period of 35 years, starting in 1937. Indeed,

\textsuperscript{8}A recent court ruling affirmed the state's right to regulate unions in this industry, federal legislation governing the same conduct notwithstanding. The potential corruption associated with the industry played a major role in this decision.
members of all the New York Mafia families have been convicted of various kinds of extortion in the garment industry.

Throughout the twentieth century, the garment trade, centered in New York City, has been associated with criminal gangs. In the early days of the industry, that association sprang from efforts to organize workers into what later became the International Ladies’ Garment Workers’ Union (ILGWU) and the Amalgamated Clothing Workers of America (for men’s clothing). Both the unions and the employers made use of criminal gangs in the first quarter of the century—the former to facilitate unionization, the latter to prevent it. On occasion, the same gang would serve both sides, extorting happily from all parties, including dissident Communist union leaders.

During the Depression, the employers also sought to form cartels to prevent price cutting, using the services of gangs such as that of Buchalter and Shapiro (Block, 1982, Chap. 7). Inevitably, the gangs did more than police adherence to price schedules. They also extorted individual firms that sought to avoid conformity with the cartel rules.

The current role of the racketeers is quite different. To understand that role, it is necessary to know something about how the industry is structured. The garment industry is not really a single entity. In fact, it has a number of quite distinct components. Ladies’ garments and men’s garments are generally made by different firms, unionized by different unions, and marketed through different channels. Throughout the remainder of this section, we shall deal only with ladies’ garment manufacturing, which is the largest component of the garment business.

There are three major sectors within the ladies’ garment production industry. Contractors actually make garments or the components of garments; jobbers are the firms that design the garments, provide orders for the contractors, and sell the garments to distributors; and truckers transport fabric to the contractors, garments or pieces of garments from contractors to jobbers, and garments from jobbers to the distributors. Though there has been some diversification of location, New York City (particularly Manhattan) still dominates the national industry. Total employment in the New York City industry is estimated at about 250,000,8 and it is the largest industrial sector in the city. Northeastern Pennsylvania also has a significant amount of

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8We use a standard figure cited in newspapers and legislative hearings (Leichter, 1982) rather than the official figures from the Bureau of Labor Statistics because there is a significant probability of undercounting. This is a consequence of the employment of many illegal aliens, often in unregistered workplaces. This is an industry in which illegal “homework” is thought to be a major problem, and official statistics are likely to undercount these workers.
garment industry activity, again alleged to be much influenced by racketeers.

Contractors are often very small and ephemeral firms. As described in a series of reports by a New York State legislator (Leichter, 1979, 1981, 1982), the industry has a large number, perhaps as many as 3,000, "sweatshops"—small contractors set up in apartments or other settings where workplace codes are grossly violated and immigrant labor receives wages very much below the federal statutory minimum. Chinatown, where law enforcement generally is very weak, is one of the two major sites for these sweatshops. The other is northern Manhattan, where Latin American immigrants provide cheap labor. Leichter estimates that the typical firm employs 15 to 30 workers.

Jobbers tend to be more substantial firms, with revenues of up to $50 million, although it is claimed that no one firm has as much as 1 percent of the total market. The jobbers are perceived as the more powerful in negotiations with contractors. Indeed, the ILGWU has, in recent years, attempted to deal with this perceived imbalance by including a restrictive clause in its contract with jobbers, which requires them to register a certain number of "permanently designated" contractors who may be fired only for cause (Kwitny, 1979, p. 237).

Racketeers

The racketeers are involved in both jobbing and trucking. Trucking seems to be the more significant of the two. It has been consistently alleged, over a four-decade period, that (1) contractors and jobbers may not switch trucking firms; (2) trucking prices are set well above the competitive level; (3) members of the Mafia are the actual owners of the trucking firms; and (4) the relevant union local (ILGWU Local 102) is controlled by the same racketeers. The evidence for these assertions is largely anecdotal, but the density of the anecdotes, together with a number of undercover investigations and successful prosecutions, gives credence to them.

This would appear to be the same situation as that in the garbage collection industry. The customers (contractors and jobbers) are subject to a customer allocation agreement, which is made effective by a corrupt union. There are, however, two significant differences: First, the racketeers are far more directly involved in the garment trucking firms than in the garbage collection firms. There is no question that they are paid to provide cartel enforcement services for a set of garment trucking firms which retain the bulk of the profits generated by the cartel. Second, racketeers have used their power in the trucking
sector, together with an associated financing role, to enter quite directly into the business of garment manufacturing itself.

Clear evidence of a customer allocation agreement among the garment industry carters is provided by Leichter (1982, p. 31), who reports the following interview with a garment manufacturing executive:

An officer of one jobber related how, "Last week I got a call from Tom Gambino.\(^{10}\) He suggested a few Chinatown shops for me, but I said I was happy with the ones I am using right now." He said Gambino did not press the issue because, "I've been in this business a long time, I know Tom, and I get a lot of respect." He felt that other jobbers might feel "more inclined" to go along with the suggestions, however. And later in the interview he admitted that the truckers he uses could sell his accounts without his permission, that he actually has no control over who his trucker will be for particular loads . . . and that he even has to pay the truckmen five dollars for every load "just to get it out of the building."

Similar comments are reported in a 1977 series of *Women's Wear Daily* articles on racketeering in the garment industry.

Leichter and Kwitny also reported that some of the major trucking firms in the garment industry were owned by members of the five New York Mafia families. For example, Thomas Gambino, the son of Carlo Gambino, was the owner of a major trucker, Consolidated Carriers Corporation, which also controlled a number of smaller trucking companies and jobbers. Leichter also claimed that Consolidated Carriers had been used to finance a number of sweatshops.

The basis for control of the garment trucking sector appeared to be the corrupt ILGWU Local 102. The ILGWU is not a union about which many allegations of racketeer influence have been made. But the union leader was reported as saying that the international had little control over Local 102 (Kwitny, 1979, p. 237). The leaders of the local had long been associated with members of the Gambino family. However, it is not possible, based on existing published information, to make any more precise statement than that. Certainly, we cannot establish whether the local had the same kind of autonomy from the racketeers that appeared to characterize Teamsters Local 813 in the Long Island carting industry.

Loansharking is another important element of organized-crime influence in the garment industry. The sudden changes in fashion, the seasonality of the demand for particular kinds of garments, and the small size of most contractor and jobber firms induce frequent, acute, short-run liquidity problems that conventional sources of finance are unwilling to handle. It is asserted that the same organized-crime

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\(^{10}\) Gambino is alleged to be the central racketeering figure in the industry.
figures who were involved in other aspects of the garment industry also provided loans as a method of taking control of the borrower firm.

The lender may demand that the borrower provide no-show jobs for himself and/or various associates. Alternatively, the lender may try to control the allocation of trucking or contracting by the borrower firm. The eventual result may be bankruptcy for the borrower or loss of effective control to the lender. The bankruptcy is likely to involve misappropriation of credit from other companies. (There are many anecdotes concerning this kind of behavior, but there is no way to determine its frequency.)

What characteristics of the garment industry have made it subject to racketeer influence? If the problem was found only in the trucking sector of the industry, we might assert that it was simply a slight variant of the carting industry. The more visible involvement of the racketeers can be explained by the fact that there is no regulation here that induces a need for concealment. The customers, i.e., contractors and jobbers, are, like the commercial establishments served by carterers, poorly situated to resist a customer allocation agreement and also weakly motivated to do so.

However, the racketeers' involvement in the other sectors of the business must also be accounted for. Mafia loan sharks may have a significant advantage over conventional financiers in estimating the riskiness of different potential borrowers, both because organized crime has superior information and because it has better methods for inducing repayment. The superior information comes from involvement in the trucking sector, which enables the Mafia to obtain credible assessments of the soundness of individual small businesses. The loan sharks' prospects of repayment are better because, even without physical coercion, they may be able to obtain returns from bankruptcy scams if the borrower is in fact unable to service the loans. They may also be able to persuade other suppliers to extend more credit, to give the debtor a better chance of repaying the original loan.

It is important to note that the loan sharking function does not necessarily provide a basis for influencing the conduct of a sector of the industry. Individual firms, jobbers or contractors, may be under the control of individual racketeers, but that does not imply that racketeers can control the whole sector. There is no suggestion, for example, that racketeers can restrict new entry into either the contracting

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1 Although the Long Island carting industry is not subject to comprehensive economic regulation, there is local regulation of some sectors. Local government is also a major customer. Both these factors motivate greater concealment of the racketeer role.
or jobbing sector.\textsuperscript{12} Indeed, if their major income in the garment industry derives from a monopoly of the trucking sector, they have an incentive to promote competition in the other two sectors.

Policy Response

As in each of the other industries we have discussed, racketeer involvement in the garment industry is widely recognized and has been the subject of repeated law-enforcement investigations. Indeed, this industry has probably been responsible for more Mafia convictions than any other legitimate industry. Moreover, those convicted have included some of the more prominent Mafiosi in New York, including Thomas Lucchese and Johnny Dioguardia. The investigations span almost five decades.

There is no reason to believe that these investigations have had any significant effect on the racketeers' influence in the industry. A series of articles in Women's Wear Daily in 1977 indicated that participants in the industry, as well as police and prosecutors, still believed that the trucking sector was entirely controlled by Mafiosi and that many firms in the jobbing sector were also controlled by Mafia members.

Regulation has not been seriously considered. There have been occasional calls for the ICC to extend its jurisdiction to intracity trucking in New York City, but these are less frequently heard in the era of deregulation. Nor is there much reason to believe that the ICC, which has made no serious effort to deal with Mafia influence in the interstate trucking business, would have any more success in dealing with the New York City garment truckers. In any case, inducing competitive behavior among truckers is not one of the ICC's stronger points.

The extension of regulation to the jobbing and/or contracting sectors seems even less plausible. The rapid turnover in small firms in these sectors would make such regulation exceedingly difficult. More stringent enforcement of laws concerning work conditions and wage payments is certainly appropriate but would strike only marginally at the influence of racketeers.

\textsuperscript{12}To the extent that they are better able, perhaps because of lessened concern about detection by official agencies, to obtain labor for substandard wages, they may affect the conduct of the contracting sector as a whole by driving out those contractors who are unwilling to pay illegally low wages.
IV. POLICY OPTIONS

INTRODUCTION

Racketeer influence over an industry can result in higher prices, restricted entry, fear among customers, and reduced innovation. There are also more subtle, indirect consequences: Control over one industry may provide racketeers with opportunities in other industries (e.g., garment trucking facilitates jobber loansharking).

The problem with which we are dealing is an old one. It has received a little more attention of late, through some major prosecutions and the hearings of the President's Commission on Organized Crime. Nonetheless, it is not an issue that is high on the nation's policy agenda.

In part, this reflects the relatively static nature of the problem. Racketeer influence is concentrated in a few industries, just as labor racketeering is a significant problem in only four major unions. More important, it has been concentrated in the same set of industries for over fifty years (allowing for the disappearance of some sectors of these industries as the result of technological progress, e.g., the ice carting business). The problem may be a reasonably serious one, but it shows no signs of spreading beyond its long-established base.

In this section, we begin by considering the varieties of forms that racketeering influence can take and the regulatory alternatives available for dealing with each of them. This is followed by an analysis of the relationship of the phenomenon to the more widely recognized labor racketeering; the analysis suggests that the two have an important historical connection but that the relationship may have weakened. Finally, a more detailed analysis is provided of policy options for dealing with our case-study industry, solid-waste collection on Long Island.

DISTINCTIONS

Racketeer control has taken a quite different form in each of the industries in which it has been identified as a problem. In the casino industry, the influence does not seem to include the power to exclude or affect the behavior of others. The significant racketeer presence is largely the result of historical accident and certain features of the
casino business itself. The known presence of racketeers may have affected decisions by others about investing in the industry and may have led to certain regulatory rules, but it does not appear to have led to exploitation by the casinos as a group.

In the stevedoring industry, racketeer influence is purely exploitative. Regulation has prevented the most predatory forms of labor exploitation, but has apparently not had the same effect in reducing the power of racketeers to use their influence within the union to control actions of the stevedoring and shipping companies.

Finally, the garment industry represents a mixed case. In some respects, it is very much like the carting industry, with a customer allocation agreement among the garment trucking firms. However, in other respects, it is more like the waterfront sector. Union influence has been used to affect relations among the garment manufacturing firms themselves. The role of the racketeers in the financing of the garment manufacturers is reminiscent of that in the casino industry, although the sources of their involvement are different in the two cases.

We can scarcely claim that three examples exhaust the possible forms that racketeer influence over an industry can take. But an argument can certainly be made that racketeers can derive their income from only three bases: labor, capital, and customers.\footnote{This is no more than a standard statement of tax analysis. Racketeers' influence may be regarded as essentially a tax, which must be borne by one of the factors of production and/or passed forward to the final purchaser. The government might be added as a fourth base, in the form of tax evasion. However, tax evasion does not require racketeer control of an industry.} In the carting industry, the final customer is the source of racketeering incomes, with the providers of capital, and perhaps even labor, as joint beneficiaries. In the waterfront industry, labor used to be the prime victim; now it is possibly a beneficiary, and capital, along with the final users, bears the cost of the racketeering tax. In the garment industry, both labor and capital bear the cost.

This variety of racketeer influence suggests that there may not be a single set of policies appropriate for dealing with the problem. In the waterfront industry at least, the racketeers appear to be entirely parasitic. They provide no service to the overall industry, although certain firms may fare better than they would in a purely competitive setting. In the carting industry, the racketeers appear to substantially improve the well-being of the firms as a group, although some firms (the potentially more efficient) may fare less well than they would in a purely competitive market.
Clearly, the techniques for reform are likely to be different in these two cases. The waterfront industry may generally not resist reform, provided that reform takes credible forms. The industry would probably resist reform that is likely to induce a major struggle between racketeers and regulators, since this could impose significant short-run costs on the industry. But in the carting industry, reform of any kind will meet resistance from the carters, who are prime beneficiaries of the racketeers’ involvement. Different techniques thus may be necessary.

REGULATION

The standard policy response to the problem of racketeer influence, when one has been forthcoming at all, has been regulation of a very detailed and intrusive kind. The regulation of carting in New York City and New Jersey, both responses to the revelation of racketeering influence, is illustrative of this. The regulations are discussed in more detail below; suffice it to say here that they appear to have imposed significant paperwork burdens on participants in the industry and little else.

The regulation of the waterfront in New York and New Jersey has arguably been more successful. It has certainly prevented the outrageous exploitation of union members that characterized the first half of this century. But it has not, despite a significant bureaucratic structure with broad surveillance powers, prevented the abuse with which we are specifically concerned, namely, racketeer influence over the stevedoring and shipping firms.

The casino industry in New Jersey represents the extreme in terms of a regulatory response. Since the very inception of the industry in 1977, concern with racketeer influence has been prominent. Governor Brendan Byrne, when signing the bill which permitted the operation of casinos in Atlantic City, made the statement, “Organized crime, keep out of here.”

An extremely elaborate regulatory apparatus was erected, in the form of the Casino Control Commission. A separate agency within the Attorney General’s office, the Division of Gaming Enforcement, was set up to investigate applicants for the many classes of licenses that were to be issued for participants in the industry.

Any firm proposing to sell more than $50,000 of goods or services to casinos is required to pass intensive scrutiny, as must all union officials and most employees. The casino licensees themselves are subject to investigations sometimes costing millions of dollars. The first three
licensees (Resorts International, Bally Corporation, and Ceasar's World) all had difficulty getting their licenses; the leading figures in two of them were required to divest themselves of their interest because of allegations of organized-crime connections. The Hilton Corporation was denied a license after spending $300 million constructing its hotel/casino, because of its use (in an unrelated matter) of a lawyer who was reputed to have organized-crime connections.

Despite evidence of corruption on the part of the Vice Chairman of the Casino Control Commission in 1980, revealed in the federal Abscam investigation, there has been no serious allegation that racketeers have a significant influence in the New Jersey industry. It has been repeatedly alleged that the major unions involved in the casino industry, particularly the construction unions, are controlled by racketeers. However, no one has suggested that the racketeers have been able to use this influence to determine who runs the casinos or to divert casino profits illicitly.

The regulation of the New Jersey casinos has apparently succeeded in preventing racketeer control—but at a significant price. The regulation itself is quite costly. The Casino Commission and the Division of Gaming Enforcement had total budgets of $41 million in 1985; total industry revenues were $2 billion in that same year. This cost estimate ignores the significant additional costs imposed on the applicants themselves, not just the casino operators but also the many employees and suppliers. Nor does it include the cost of wrongful rejections, inevitable in any regulatory system that makes judgments about the moral fitness of individuals.

There is some question as to whether this elaborate regulatory apparatus is necessary. We have argued that the racketeer influence in the Nevada casinos was very much the result of specific historical features, particularly the unwillingness of legitimate financial institutions in the 1940s and 1950s to back economic entities as morally dubious as casinos. The history of Nevada casinos owned by publicly traded corporations did not suggest that racketeer influence was a significant problem. Less elaborate licensing and monitoring activities might have sufficed in New Jersey in the late 1970s, to accomplish the same result.

However, it can certainly be argued that such heavy-handed regulation at the beginning of the industry was appropriate to avoid even a modest risk of racketeer entry. Precisely for this reason, it is not clear

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2One of the major sources of an extended and bloody conflict in a Philadelphia Mafia family was a concern about the leader's passivity in dealing with Atlantic City, part of its traditional territory. Younger members of the Bruno family objected to their leader's failure to move aggressively when the casinos made that territory much more valuable.
that this apparatus provides much guidance for control of racketeer influence in other industries. It seems plausible that the difficulty of removing racketeers from an industry is significantly greater than that of preventing their entry. A new industry will not have created the networks of favors and fear that give many participants reason not to cooperate with efforts to remove them. Nor will it have generated the reputational barrier to entry that makes it so easy to exclude legitimate potential entrants.

To summarize, regulation has not yet succeeded in eliminating racketeer influence over any industry in which such influence has become well-established. It will be argued later in this section that this situation derives from the need to change the structure of opportunity within the industry; regulation rarely can accomplish that.

LABOR RACKETEERING AND INDUSTRY CONTROL

Before considering the general policy problem, we must briefly analyze the relationship between labor racketeering and racketeer control over an industry. It is tempting to consider racketeer influence over an industry as simply an extension of racketeer control of a union. At first glance, it appears that the control of a union has been essential for racketeer influence in three of the industries we have examined (carting, garment trucking, and stevedoring). The casino industry is a dubious counterexample, precisely because it is not clear that racketeers can be said to exert any influence, despite their presence in the structure of the industry. That may be a consequence of the lack of any effective union presence; racketeer influence without a union may require the kind of naked aggression that makes it a relatively easy target for law enforcement.

Yet there are arguments for denying the equivalence of the two problems, except in a historical sense. It may be true that control of a union is an essential element in the initial acquisition of influence by racketeers, but is not necessary for the maintenance of that power. Again, it is important to distinguish between the circumstances leading to the creation of a problem and those necessary for its maintenance. History, in the form of participant attitudes and expectations, can greatly alter options.

The carting industry certainly illustrates this. The relevant Teamsters locals in New York and New Jersey seem quite corrupt, but they appear to play a modest role in the continuation of the conspiracy from which racketeers benefit. The conspiracy would work better, i.e., the industry profits would be higher and there would be less friction, if the
union were more responsive to the interests of those racketeers who receive money from the carters. But the conspiracy is able to maintain itself with only a modicum of union cooperation because (1) current carters have acquired the habits of conspiracy, (2) customers are cowed by the past record of intimidation (partly union-executed) in response to complaints (they may be even more cowed by the lack of success of such complaints), and (3) potential entrants are inhibited from entry by a concern about aggressive response to entry (e.g., destruction of entrants' property, intimidation of their customers).

Thus, it may be possible to solve the problem of racketeer influence in an industry without simultaneously eliminating racketeers from the relevant union. Given the apparent intransigence of the union racketeering problem, this is of some importance. After all, the federal government has conducted a consistent campaign against the four principal unions controlled by racketeers (Teamsters, ILA, Hotel and Restaurant Employees, and Laborers) yet has apparently been unable to eliminate the racketeer presence (President's Commission on Organized Crime Hearings, 1985). Racketeers with control of a union may be content to use it solely, or at least primarily, for the exploitation of its various pension and welfare funds. While such exploitation is a significant problem, there is also merit in seeking remedies that at least confine racketeers' predations.

However, for investigative purposes, it is clearly important to note the connection between labor racketeering and racketeer influence over an industry. A police agency that has information about racketeer control of a union may well find it useful to investigate whether that same control has been extended to some associated industry. Similarly, evidence that there is racketeer control of an industry might appropriately trigger an investigation of the relevant union.

POLICY ANALYSIS: LONG ISLAND CARTING

In the following, we set out a series of proposals which attempt to deal with the problem of racketeer influence in the Long Island carting industry. The analysis is quite specific, dealing with this particular industry in this particular location, but it should be applicable as well to other industries in which racketeers have helped create industrywide agreements and in which the union plays some role in facilitating the racketeers' activity.

We start with the proposition that the problem is not one that can be solved simply by removing a few "bad apples" (the usual approach of law-enforcement agencies). The problem in the Long Island carting
industry has persisted for many years. The experience of other jurisdictions in the area, notably New York City and northern New Jersey, provides little basis for optimism that the conviction and punishment of the principals will change the conduct of the industry. No single prosecution is likely to change the calculations of participants concerning the risks and benefits of collusion and racketeering. We cannot expect a prosecution to result in the exit of racketeers, the entry of new firms, or competition among existing firms. The cost of investigation and prosecution of activities is high enough that the participants are likely to assume (correctly) that there is little chance of another such investigation in the near future. The history of sentencing for white-collar crime, of which this is marginally an instance, does not inspire much fear of such prosecutions. Finally, the outcome of the OCTF investigation actually affirmed the profitability of the conspiracy.

The Outcome of the OCTF Investigation

After eighteen months of investigation, the OCTF brought a series of indictments against the principal figures, in November 1984. Those indicted included:

- Tony (Ducks) Corallo, reputed leader of the Lucchese family.
- Salvatore (Tom Mix) Santoro, underboss of the Lucchese family.
- Salvatore Avellino, Corallo's chauffeur and principal racketeering representative in the Long Island garbage industry.
- James Corrigan, director of the Private Sanitation Industry.
- 4 local officials.
- 1 state official.
- 11 other carters, together with their companies.

The indictments covered a wide variety of offenses. The local officials were indicted for agreeing to influence the Huntington town council to increase rates for residential collection. The state official, head of the regional branch of the Department of Motor Vehicles, was indicted for providing Corrigan with information that confirmed his suspicion that he was under state investigation. But the principal indictments concerned the property rights agreement and efforts to discipline the rebel carter.

Another two years passed in litigation concerning the technical aspects of the investigation. The principal focus of this litigation was electronic surveillance, e.g., did the OCTF have authority for wiretaps in certain locations, was adequate effort made to minimize the extent
of such surveillance, and did the transcripts accurately reflect the content of the wiretaps? Given the large number of defendants (who retained approximately 30 lawyers), these were inevitably complex proceedings.

Some defendants were dismissed on technicalities. For example, it turned out that two of the carters were immune from prosecution because they had testified before the Nassau County grand jury.

At the end of all this, most of the defendants, including the ringleader, Avellino, pleaded to the charges. The pleas did not include any agreement with OCTF prosecutors on sentencing recommendations to the court. The prosecutors did provide some signals about the relative status of the defendants; three ringleaders were required to plead guilty to a D felony, while the others pleaded to a lesser E felony.

The judge gave all those who pleaded almost identical nonpenal sentences: five years' probation plus some community service. Avellino was required to provide 840 hours of garbage collection; some of those hours could be worked by an employee if he worked with Avellino.

Without denying the complexity of determining the appropriate sentence for a criminal offense, the penalties imposed here certainly raise serious questions for public policy. If we view such sentences as setting the "price" of the crime, then they are clearly too low; this price is far below any reasonable estimate of the return to the participants.

We have suggested that the annual income derived by the carters from their customer allocation agreement was approximately one-third of their income from commercial customers and one-sixth of that from residential customers; our very rough estimate of the total annual income accrued by the carters was about $14 million. The total value of the penalty imposed on the industry by the judge, measured in terms of lost freedom and legal costs, is clearly a great deal less than that. Unless those involved are extraordinarily risk-averse, the penalty is highly unlikely to change their calculation as to the net returns from continuation of the customer allocation agreement.

Matters may actually be even worse than this suggests. The investigation produced a great deal of publicity about the involvement of racketeers in this industry and about the network of political favors generated by the current carters. Neither potential entrants nor customers are likely to derive any comfort from this information even if it only confirms their prior beliefs. Together with the light sentences imposed on the principals, this publicity may well increase the barriers to entry into the industry and the passivity of customers.

A slight piece of evidence for this may be found in the recent effort by the town of Babylon to obtain bids for garbage collection. The town actively sought bids from firms (new as well as old) for a long-term
contract to pick up waste from the entire community. The total annual value of the contract was at least $5 million. No companies other than those currently operating there entered a bid.

**Goals of Reform**

Structural remedies changing the whole opportunity system in the industry are necessary. We begin by setting out the problems that we are attempting to solve:

1. Racketeer involvement in the carting business.
2. Anticompetitive behavior by carting firms.
3. Fraudulent representation of service levels to customers.
4. Racketeer influence in the union.
5. Income underreporting.

These are set out as distinct problems, although they are clearly related. For example, the elimination of racketeers increases the probability of competition. On the other hand, it is not sufficient to guarantee competition; collusion in this industry appears to be quite frequent even without racketeer involvement.\(^3\) The racketeers may only facilitate collusion.

Identification of the various objectives is also important because it is likely that strategies will differ in how well they attain particular goals. For example, some strategies may be highly successful in eliminating racketeer influence but may have very little effect on income underreporting.

Intrinsic characteristics of strategies or policies themselves will also affect the relative desirability of those strategies. Three characteristics seem to be particularly significant:

1. Costs to government.
2. Costs to private parties.
3. Intrusiveness.

We seek remedies that involve modest costs to government, impose low costs on other parties, and are minimally intrusive. But again, it is important to note that policy choices may involve tradeoffs among these dimensions.

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\(^3\)Indictments alleging collusion in the garbage collection industry, apparently not involving racketeers, have been brought in Atlanta (1980) and Syracuse (1983) in recent years.
Regulation in New Jersey and New York City

As previously mentioned, both New York City and New Jersey have responded to evidence of racketeer influence in the carting industry by creating comprehensive and intrusive regulatory apparatuses. The regulation is generally perceived to have failed to achieve its ostensible objectives in both jurisdictions, i.e., it has neither induced competition nor eliminated racketeers. In addition, regulation has imposed significant costs on both government and private parties. Since both regulatory schemes appear, on paper, to be quite reasonable and appropriate to the problem, it is worth investigating the sources of their failure.

The New Jersey regulatory system follows classic public utilities lines. The underlying legislation is rather vague, and responsibility for its implementation rests with the Board of Public Utilities (BPU), whose primary function is to regulate the major fixed capital utilities (electricity generation, natural gas distribution, and telephone service). Each carting firm applies for an individual rate schedule which, according to its submission to the BPU, will permit it to earn a "reasonable" rate of return on invested capital.\(^4\)

The appropriateness of such a scheme for an industry of such low capital-intensity is questionable. Analysis of the financial statements of 41 carters in Bergen County showed that a return on the rate base (a utility measure of capital) of 12 percent in 1984 would have accounted for only 4 percent of total revenues.\(^5\) Capital-based regulation focuses on too small an element of total cost.

In New York City, the Department of Consumer Affairs (DCA) regulates the industry, following a different but also well-established mode of regulation. A maximum price (per cubic yard collected) is set for the industry, following hearings on an application for a rate increase. The rate is set to allow a reasonable profit for the average firm, measured as a share of total operating costs. This is similar to the method used by the ICC for the regulation of trucking, an industry with a similar ratio of variable to fixed costs.

\(^4\)The carters may set different prices per cubic yard for customers distinguished by frequency of pickup per month, size and type of container, characteristics of waste, etc. Tariff schedules can contain more than one hundred separate prices.

\(^5\)The same regulatory scheme also covers waste disposal. In New York City, there are no private disposal sites.

\(^6\)See Appendix 7 of testimony of Peter Reuter in BPU v. Carmine Franco and Co., Inc.
Both regulatory systems impose “good character” requirements for licensees, to ensure that known felons are kept out of the industry. Both agencies also have a general requirement that all changes affecting ownership and finances of licensees be submitted to them for prior approval. For example, New Jersey licensees must get approval from the BPU before incurring any debt with a maturity of more than twelve months.

Neither agency has the resources to carry out investigations that would permit it to pierce the veil of paperwork that surrounds a great deal of the misbehavior in the industry. The location of responsibility in relatively large regulatory agencies, whose other responsibilities are far more salient (and greater, in money terms), has also helped ensure that the carting industry receives relatively little attention from the senior regulatory officials.

It is also important to note that the regulators have never had the means to deal with the fundamental problem of the industry, namely, the reputation for racketeering which deters entry, aggressive competition, and aggressive search on the part of customers. The occasional prosecution and investigation, usually prominently covered by the press, has probably only added to the reputational asset of the carters. With the customers being passive, regulators have not been able to prevent the various kinds of fraud that undermine price regulation, at least not without large-scale and intrusive inspectional efforts.

**Restructuring the Market**

The failure of the conventional regulatory systems suggests the need for a much more fundamental restructuring of the market, at least initially. The following recommendations, specifically tailored to the Long Island carting industry, shift some of the responsibility of contracting from the current set of customers, in both the residential and commercial sectors:

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7. The New Jersey legislature recently broadened the “good character” requirements. This law was upheld in court shortly before the writing of this report; too little time has elapsed for an evaluation of its impact.

8. The agencies have to rely on financial statements submitted by the licensees. Officials recognize that such statements may seriously understate revenues and overstate expenses, but the audit staffs do not have sufficient manpower to effectively challenge these figures.

9. The New Jersey BPU’s efforts to remove licenses from some of the carters found guilty of antitrust violations in the Trade Waste Association case have led the BPU to substantially increase its involvement in solid-waste regulation, at least in 1984–1986.
1. A Regional Authority should be created to take over contracting for solid-waste collection services in the two counties (Suffolk and Nassau). The Authority would create a comprehensive set of districts on Long Island, which would include both residential and commercial customers. Each district should be large enough, and the term of the contract long enough, that the winning of a single district contract would permit the establishment of a firm large enough to operate at close to minimum operating costs.

2. All commercial and industrial establishments in each district should be required to provide to the Authority the modest amount of information necessary for the issuance of contract specifications that permit informed bidding and accurate reimbursement.

3. An office should be created whose sole responsibility is the preparation of engineering estimates for each contract. This could possibly be a component of the Authority, but would more sensibly be attached to an existing state agency.

4. A public benefit corporation should be created to operate a carting enterprise in competition with the private carting industry. The objective of the corporation would not be to maximize profits or market share, but to provide a monitoring device that gives force to the engineering estimates for the individual contract, i.e., the corporation would provide, in effect, a yardstick for determining the reasonableness of contractor prices.

This strategy does not rate highly on all the criteria we have offered for evaluating alternative policies. It is certainly intrusive. It has the appearance of being expensive, although we shall show that it is likely to lower costs for both government and private parties, as compared with the current situation. And it should dramatically reduce the incidence of the problems we have identified as ubiquitous in this industry around New York.

What follows is an outline of how this system might be implemented and how it should affect participants in the industry. It is not a detailed implementation plan, but it offers enough detail to permit assessment of its feasibility and desirability.

**Regional Authority**

A Regional Authority will be formed to create districts for solid-waste collection, both residential and commercial. The districts clearly
must cross local jurisdictional lines, simply because many local governments have too small a population to provide anything close to an optimal-size district, i.e., one requiring at least five trucks. The board of the Regional Authority should consist of representatives of the local governments that will be directly paying for the collection services.

After creating the districts, the Authority will solicit bids. An important part of its function will be the collection of information about the service needs of the individual districts. All business establishments within its jurisdiction will be required to provide the information necessary for the initial estimation of the total service requirement. The Authority will also have to update this information during the performance of contracts to establish the appropriate level of compensation to be received by the carter. Finally, it will determine the service levels received by individual commercial establishments, using self-reports of the carter as an interested-party auditor.

Bids will be sought on the basis of unit price, where the unit is a "point," a notion of service level defined below. The Authority will estimate the number of points for the district, and bidders will specify a total price for that number of points, together with a price for each marginal unit. The latter will be used by the Authority to adjust the amount paid to the carter in light of any discrepancies, up or down, between the estimated amount of service actually provided and the amount originally specified. Given the relatively long duration of the contracts, this specification of a marginal price is an essential feature. Bids will specify annual total and marginal prices for each contract year.

The districts should be large enough that the winner of a single contract can conduct an operation of an efficient size. Likewise, the contract must run for a period long enough that the winning firm can amortize the costs of any fixed plant involved in fulfilling the contract. These two conditions will facilitate the entry of new cartering firms, which are at present deterred from the government contract market by the small size and relatively brief duration of the contracts issued by

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10This estimate of the minimal optimal size is offered by Stevens (1978). While there may be multiplant economies, as evidenced by the rapid growth of national firms, these can be captured by appropriately sized districts.

11Not all jurisdictions can be represented on the board—there are hundreds of local government entities on Long Island, not including school districts. Board membership might rotate among the local governments, as is often done with regional authorities serving other functions.
most public authorities. There is a widespread but mistaken belief that small contracts will induce more bidding because more firms can bid on them; this ignores the fact that the competitive problem in this industry relates more to the lack of entry than to the numbers of current providers. By creating larger and longer contracts, the Authority can induce bidding by firms not currently operating in the Long Island market.

Bid Solicitation: Measurement Problems

A major difficulty in implementing this scheme is the need to create a method for measuring the service needs of a district. The mingling of commercial/industrial waste service with residential waste collection presents relatively novel problems. This section outlines the basis for a solution.

The overt difficulty is the heterogeneity of service needs of different customers. Some customers generate large volumes of inorganic waste which must be placed in special containers (such as roll-offs) and picked up daily by other specialized equipment. Other establishments generate modest amounts of organic waste, placed in whatever boxes or cartons happen to be around, to be picked up no more than once a week by any equipment that the carter has available. The cost per cubic yard is likely to be much higher for the latter. A technique is needed that takes account of the relative cost of providing these different services and can combine them in a single index which represents the total cost of providing service to a mix of customers. In effect, we must develop a "hedonic price index." Before discussing the technical problems of such an index, we consider some evidence that suggests that only a modest number of dimensions need be taken into account in creating one. The evidence comes from a review of the tariff filings of carters in New Jersey. There, the BPU requires each firm to file a separate tariff for each type of service it offers. The per-unit price charged any customer must be one of the filed tariffs.

Firms file as many as twenty different tariff schedules. Each schedule may contain three or four different tariffs, depending typically on the distance from the container to the nearest point that the pickup

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12For example, the town of Islip divided itself into 91 districts in 1983 for purposes of letting residential waste collection contracts. The average-size district probably required fewer than two trucks on a full-time basis. Though the Islip contracts were let for a three-year period, many other towns let contracts of only one year’s duration.

13This is a term for a set of prices that attach to the various services provided by a good, rather than the good itself (see Rosen, 1974).
equipment can approach. There are eight dimensions in the New Jersey tariffs:

1. Nature of service (roll-off, non-roll-off).
2. Size of container (generally two size classes).
3. Compacted or noncompacted waste.
4. Frequency of pickup (weekly, twice weekly, daily or twice daily).
5. Containerized or noncontainerized waste.
6. Character of waste (share of inorganic matter).
7. Distance of customer from disposal site.
8. Distance between pickup and loading points.

An index with even eight dimensions presents a formidable technical problem. However, if one allows for a certain amount of cross-subsidy and recognizes that the existing price differentials are probably fairly arbitrary, since customers are allocated by historical accident, the problem is a little less daunting. It may be possible to use a much smaller number of variables for assigning each customer a number of "points" of service.

The most important variables are likely to be the quantity of service provided on each occasion (cubic yards of waste), the compactability of that waste (assignable to one of two classes), and the distance from the point of disposal. These variables are likely to explain almost all of the variation in the unit costs of servicing different customers.\textsuperscript{14}

In light of the fact that the New Jersey market is known to have been characterized by a customer allocation agreement, the remaining factors may have merely represented methods for discriminating among different classes of customers on the basis of differences in their elasticity of demand. For example, it is difficult to see why the frequency of service should affect the unit cost. The tariff schedules of the New Jersey carters show declining tariffs for more frequent collection. One argument for this is that the carter, who usually provides the container, can generate more revenues per invested dollar if the container is emptied more frequently. It is just as plausible that actual unit costs rise with frequency, since customers who are serviced less frequently can more easily be fit into a schedule that minimizes total collection costs. On the other hand, customers who use more frequent services may be those who are more likely to consider self-hauling if prices are

\textsuperscript{14}Note that the price involves both collection and disposal services. Since the carter must bear the cost of disposal and cannot, for all but the largest customers, separate out the waste of individual customers at the disposal site, he must take into account characteristics of the waste that affect the disposal cost, even if they do not affect collection costs.
too high and/or who pay more attention to the price of the service (i.e., are more likely to seek out other carters). Moreover, many carters in New Jersey have very simple tariff schedules. Some of those who provide service to a narrow range of commercial customers in a compact geographic area probably specify a single rate for those customers. Finally, we note that New York City carters operate with a far simpler tariff schedule (as approved by the Department of Consumer Affairs) than do the New Jersey carters.

If these assertions are correct, the problem of designing a roughly equitable pricing system for individual commercial establishments is not so formidable. Each customer needs to provide the Authority with only three pieces of information: location, average quantity to be disposed of on each occasion, and the nature of the material being disposed of. The Authority can adjust these to a relative cost scale by taking into account the variation in prices actually charged in other jurisdictions. This is not a technically trivial exercise, but it can certainly be done with techniques that have been developed for assigning costs in other regulated industries in which the product or service is not homogeneous. It may be possible to analyze data from other markets to develop an index for weighting individual customers' unit costs.

Two potential problems need to be dealt with here: (1) private deals between carters and customers and (2) the Authority's need to monitor observance of contract terms. The two problems are connected in that the possibility of private deals raises the need for monitoring.

**Private deals.** It is not clear that carters and customers have any incentive to strike private deals whereby the customer pays the carter directly and either avoids registering with the Authority or underreports the amount of waste he is generating.15 The carter has a preference for cash income, but the customer has a similar preference, under most circumstances, for paying by check and thus creating objective evidence of a deductible business expense. Some businesses may be laundering funds and therefore seeking to show a higher taxable income, but this is likely to be a minor problem in the general population of businesses.

Is there any other incentive for the carter to seek private deals? The contract with the Authority will include payment for any additional waste collected within the district. The marginal price the carter bid will certainly not be below his marginal cost. The customer will pay above marginal cost (since the billing to each customer will reflect average cost for the contract as a whole), and there may be room for a

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15Not registering may be difficult, if, for example, the Authority draws its list of registrants from property tax rolls or other land-use documents. Underreporting is more feasible.
bargain reflecting the difference between the customer’s marginal price and the carter’s marginal revenue. Whether this is a serious problem depends on the size of the difference between average and marginal costs in these contracts.

**Monitoring observance.** The opposite problem, carter intimidation of customers, may necessitate monitoring of actual service levels. After all, the principle of this scheme is that customers will either report actual service utilization levels or some lower figure; their incentive for underreporting is that their bill from the Authority increases with their reported utilization level. Underreporting is impeded by the fact that the carter has the opposite interest; he would like the service levels to be overreported.

In most markets, there would be little reason to be concerned about this. The balance of power, so to speak, is equal, and neither side would assume that it had the ability to prevent accurate reporting. But in this instance, the private carters do have a reputation that inhibits the customer from challenging the carter’s assertions about service levels actually provided. After all, in the current market, the customer has exactly the same incentive to challenge his carter’s claim about service level, and we have evidence that the carters generally succeed in exaggerating that level. Perhaps the creation of a new contracting mode and the signal that the government sector is taking the problem seriously will increase customer aggressiveness, but that is by no means guaranteed.

This suggests a need to monitor service levels. There are two possible means for doing this. One involves monitoring aggregate service levels for a given contract. Total waste delivered at the disposal site (measured in tons or cubic yards of *compacted* waste) must be turned into an estimate of total volume of waste collected (mostly measured in cubic yards of *uncompacted* waste). Such a conversion presents numerous technical problems. For example, the compaction ratio achieved by equipment, on which the conversion depends, varies not only among types of equipment, but also for a given type of equipment, depending on how well it is maintained.

The alternative approach is less parsimonious in terms of data collection. It requires actual auditing of service levels for individual customers. Inspectors measure the size of containers to ensure that they have the volume claimed by the carter. They can also check that the container is nearly full at the time of collection and empty after collection.

This inspection activity need not be carried out intensively, if appropriate penalties can be imposed on a carter who is caught exaggerating service levels. Truly draconian penalties, such as loss of the
contract, would probably not be sustained by the courts, as the experience of the New York City DCA suggests, but the contract could specify penalties of sufficient severity, including carter-financed increased inspection rates, to provide a serious disincentive.

Public Benefit Corporation

A critical element of the proposals is the creation of a public benefit corporation to provide competition to the private sector carter. This need not necessarily be a permanent entity; indeed, one would hope that it would fail to establish a permanent market niche. But initially, this corporation provides an efficient method for signaling a rise in the government’s concern and, more important, for monitoring the competitiveness of the private carter.

The public benefit corporation will operate a cartering enterprise, which should mirror as closely as possible the conditions under which a private enterprise would work. It should receive no long-term subsidy from the governmental entities that set it up, although they will have to provide the initial capital, perhaps to be repaid at a rate of interest roughly equal to that on loans to established small businesses. Its sole purpose is to bid on contracts of randomly selected districts, at prices that it estimates are sufficient for it to earn a market rate of return on its equity. Profits may be either reinvested in the business or, initially, returned to the governments that established the corporation.17

The corporation would not bid on all available contracts. It would bid on contracts chosen at random, perhaps one out of every three. To bid on all contracts might lead to a substantial contraction in the size of the total market available to private carter, which is not the intention of this scheme. Bidding must be frequent enough to represent a serious threat to any conspiracy. The randomness is an important element because it prevents a conspiracy confined to a submarket,

16 Efforts by the DCA to enforce severe penalties have been greatly hampered by court delay. For example, a major firm, New York Carting, was given time by the courts to sell off customers over a six-month period, largely negating the financial penalty arising from loss of its license (see Reuter, 1984).

17 It was suggested at one stage that any profits earned by the firm should be returned to the employees of the corporation. That may indeed be a preferred means for running a firm whose employees’ performance is difficult to monitor, though most of the successful national firms use conventional wage payments. However, the objective here is simply to induce competition. It is possible that the current cartering firms have failed to adopt efficient organizational forms, perhaps because of the deterrence of entry by new firms. But until these newer and more efficient forms do enter the market, their implementation by the public benefit corporation would simply have the effect of driving out the existing firms, conspiratorial or otherwise.
namely, those districts on which it is known that the public benefit corporation will not bid.

Even if the corporation bids on only as few as one-third of the contracts, its introduction will still significantly reduce the total market available to the private carters. Resources, both capital and labor, will move out of this sector into other sectors of the local economy. There will also be mergers among some firms, and others will be driven out of the industry. These are all dislocations, some of which certainly should be considered social costs. But in view of the fact that the industry has failed to meet its own legal obligations and has imposed costs on the rest of society, the existence of these social costs does not of itself suggest that these reforms should not be implemented.\textsuperscript{18}

The corporation will also serve the function of providing service to districts whose low bid from private carters is more than, say, 10 percent above the engineering estimate. The corporation could conceivably end up taking a large part of the total market. This is not the intended outcome, but it would indicate that the private carters had failed to perform competitively.

The public benefit corporation will be required to use unionized labor; its nonmanagerial employees will, in fact, have to be members of the same union that represents employees of private carting firms. This is necessary to ensure that the corporation has no labor-cost advantage over its competition.

\textbf{Engineering Estimates}

For purposes of preparing its bids, the corporation will collect data on the costs of providing the same service in other jurisdictions. It may be desirable to have those data collected and analyzed by a separate affiliate of the corporation whose activities are subsidized, possibly through a charge to local governments in proportion to their population. The data and the analysis would be published to ensure that the private carters are as well informed as the public benefit corporation at the time of bidding.

It might be argued that the preparation of valid engineering estimates, which is what this second affiliate would effectively be doing, mitigates the necessity for the operating arm. The entity that is set up to receive bids might simply state its rule, i.e., that it will accept no bid that exceeds its (now unpublished) engineering estimate. In this form,
it would reproduce the notoriously ineffective system used by some states for monitoring highway construction bids. The many prosecutions by the Department of Justice since 1980 show how this system has been circumvented.\(^{19}\)

The problem is, at heart, a political one. The entity that seeks bids wants to purchase the service; determining whether it is paying a fair price is a secondary consideration. Highway transportation departments have routinely adjusted to conspiratorial bidding which exceeds their engineering estimates by altering those estimates, when the alternative was not acquiring the service at all or, more realistically, acquiring it only with a long delay. The availability of a public benefit corporation which will provide the service at a competitive benchmark price ensures that the contracting authority has a reasonable alternative in the event of excessively high bids.

Since the problem of preparing good engineering estimates for the letting of bids on solid-waste collection is not confined to Long Island (see New York State Assembly, 1986), it might be desirable to create an office within a state agency which would have the responsibility for making such estimates for any local government entity that desires the service. For Long Island, the Regional Authority would be required to obtain these estimates from the state office; the Authority would not prepare such estimates itself. In other parts of the state, preparing estimates might be treated as voluntary, although a finding of racketeering in the industry in some other region could trigger a requirement that the local governments in that region obtain estimates before letting a contract.

The preparation of engineering estimates is not a particularly difficult undertaking. For residential service, reasonably good estimates can be developed from data on a very small number of variables in a sample of other solid-waste collection markets; households serviced per truck, crew size, and a few characteristics of the community (density of houses, hilliness, frequency of very adverse weather conditions) may be all that are needed. Together with union wage rates and benefits, fuel costs, insurance requirements, community characteristics (as already listed), and unit disposal costs, these should be sufficient to provide engineering estimates of acceptable accuracy for any given set of residences. The development of estimates for commercial markets has already been discussed; the same data used to develop the relative weights for customers can be used to develop engineering estimates for the cost of servicing any collection of customers.

\(^{19}\)An analysis that points to the problems of engineering estimates in conspiratorial markets is presented in Feinstein, Block, and Nold (1986).
EVALUATING THE PROPOSAL

Consequences for Racketeering

None of our recommendations deal directly with the presence of racketeers in this industry. Nonetheless, the net effect of changing opportunities in the market should be the elimination of the racketeer presence.

The current function of racketeers is to facilitate a customer allocation agreement and permit carters to operate it without much customer resistance. In the restructured market, any effort to operate a customer allocation agreement by rigging bids on the new districts will fail. The agreement will attempt to raise prices but will risk loss of a substantial share of the market to the public benefit corporation. Moreover, the loss will not be shared equally. Because the districts will be relatively large, some smaller firms will service only one. A small firm that loses its bid to the public benefit corporation would be entirely excluded from the market. Even firms that have more than one district will lose a very significant share of their total activity. Each conspirator who loses one of the districts assigned to him by the conspiracy will have a strong incentive to seek compensation through aggressive bidding on a later district. This will make it far more difficult for the group to maintain collusive discipline.

Equally important, the development of realistic benchmarks, together with the availability of the public benefit corporation to provide service at the ceiling price (perhaps 10 percent above the engineers’ estimate), will reduce the profit available even from a well-disciplined conspiracy. The most that the private carters can gain is a price slightly less than 10 percent above the engineers’ estimate. This appears to be far less than they are able to obtain in the current market.

In light of this, there should be no demand for racketeers’ services in the organizing of a customer allocation agreement or indeed any other kind of market-sharing scheme. The profits available from such schemes, even if successful, will be too small to permit adequate compensation of the racketeers for entering the activity.

Labor Racketeering

Even if the incentives for carter collusion are much reduced, racketeers may still find it profitable to retain their control of the union.
Indeed, a new strategic consideration enters, since the union may be used to disadvantage the public benefit corporation.

It appears that many private carters, though signatories to the union agreement, are not in fact paying union-level wages. The public benefit corporation, precisely because of its quasi-governmental status, cannot evade its union contract obligations. Consequently, it will incur higher costs than the private carters if the latter continue to pay below-contract wages.

Moreover, a racketeer-dominated union would have a greater incentive to negotiate, together with the evading private carters, a higher contract wage than before. The greater the disadvantage incurred by the public benefit corporation as a result of its payment of union wages, the better off the private carters. The higher union wage would also raise the engineers' estimate used for decisions as to whether to accept the private carter's low bid.

The return to racketeer control over the union would increase in this situation and could, in principle, negate the whole restructuring effort. However, the remedy is not difficult to find. It consists of more aggressive monitoring of the enforcement of union contract terms. The corporation might be authorized to request, at least in the first, say, five years, auditing of particular firms that it suspects are paying below-contract wages and benefits. In addition, the New York Department of Labor might be required, during the same period, to conduct a specified number of audits in this industry. Under these circumstances, the returns to the carters from negotiating falsely high wage levels in the hope of taking advantage of the public benefit corporation's guaranteed compliance will be greatly reduced.

This does not eliminate racketeer interest in controlling the union. The membership is still a relatively low-skill group, not accustomed to exercising all its rights. The employers are still a group of small businessmen who compete only on a local basis. These are conditions under which labor racketeering is commonly found. But the imposition of tighter scrutiny on wage negotiations will at least reduce the probability that the racketeers, together with conspiratorially minded carters, will be able to effectively manipulate negotiated wages to their advantage.

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20 The existing penalties for noncompliance with union contract obligations may be low enough to provide minimal incentive for compliance. If this is so, the regional authority may be authorized, by statute, to impose some penalty on a detected noncomplier in making comparisons.
Other Benefits

The proposed restructuring also deals with two other ubiquitous problems, local corruption in the regulation of the carters and the awarding of contracts and the evasion of income-reporting requirements. Both benefits are incidental to shifting the locus of contracting from private parties and general local government.

In the current situation, carters are subject to rather unsystematic regulation by townships. The criteria for the setting of prices and allocation of operating permits are extremely vague, allowing easy manipulation. The OCTF investigation uncovered many instances of just such manipulation, sometimes in return for explicit payments and sometimes as part of a general web of favors involving the carting industry and local political parties. Eliminating local economic regulation (towns might still be permitted to set regulations covering noise, cleanliness, etc., for equipment) makes the possibilities for corruption, if not fewer, at least far easier to monitor. Since the Authority's sole responsibility is the letting of these contracts, its behavior is much more readily subject to scrutiny.

Evidence concerning the share of unreported income in the industry is presently very slight. There is anecdotal evidence and little else; there is not even much anecdotal evidence. Evidence collected from a number of small commercial customers during the investigation indicated that most paid by check. Whatever the amount of income not reported for tax purposes, the shift in the mode of contracting will reduce it to close to zero. The only opportunities for cash income will be provided by businesses that evade the Authority's registration requirement; we have already argued that few will succeed in doing that, or will even seek to do so.

CONCLUSION

What has been suggested above amounts to a radical reform of the business of solid-waste collection on Long Island. It is a reform that offers the promise of drastically reducing the opportunities for racketeers in the industry and that, in an admittedly heavy-handed way, provides inducements for competition in a market that has been notably uncompetitive for at least thirty years.

It is not intended to be permanent. One of its central purposes is to eliminate history, so to speak. This market is one in which competition is likely to be inhibited in the future simply because it has been,
quite literally, inhibited in the past. After some years of operating under very different rules, probably with a different set of actors—new carting companies without the habit of conspiracy—the market may not be prone to conspiracy even if left to its own unregulated devices. How long a period is necessary one cannot say. It could be as long as ten years; certainly not less than five.

The primary criteria for returning to private contracting, at least in the commercial market, are the successful entry of a number of new firms and a declining market share for the public benefit corporation. It is to be hoped that the public sector nature of the corporation will, in the long run, prove a mild handicap, and that the corporation will win a smaller share of the contracts on which it bids and receive fewer contracts as a result of high bids on those for which it does not compete. Even after the market has been returned to private hands, some additional monitoring will be necessary for a period of time. The preparation of sound engineering estimates should remain a permanent feature of the municipal market, since local governments have proved so inept at providing adequate information for active competition. It is also likely to be more efficient to make this a centralized function, since so many of the local governmental units are small. But, as already stressed, the preparation of engineering estimates is not an expensive or particularly intrusive governmental function.

The reforms described here are far-reaching and difficult to implement. They will require hard political and administrative decisions by many different governmental bodies. But unless some very substantial restructuring is undertaken, there is every reason to believe that the racketeering influence of the past thirty years will continue to levy its tax on the citizens of Long Island.
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