

RICO: THE ANTI-MAFIA LAW

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Abstract

After years of sending mob leaders to jail for reasons that may not have been the ones authorities wanted to charge them with, in 1970, the Racketeer Influenced and Corrupt Organizations Act was implemented on a federal level. The RICO law was designed to go after mob bosses that were not able to be charged with murder or as intellectual authors of a murder because they were not the ones executing the plan. This law also allowed prosecutors to go after mobsters for crimes such as drug trafficking, extortion, labor racketeering, and other crimes that would usually be under the control of the mafia. In this article, the RICO law will be analyzed. This article will determine whether the RICO law has been a success and if it has fulfilled its purpose after its implementation.

After years of sending mob leaders to jail for reasons that may not have been the ones authorities wanted to charge them with, in 1970, the *Racketeer Influenced and Corrupt Organizations Act* was implemented on a federal level.¹ The RICO law was designed to go after mob bosses that were not able to be charged with murder or as intellectual authors of a murder because they were not the ones executing the plan. This law also allowed prosecutors to go after mobsters for crimes such as drug trafficking, extortion, labor racketeering, and other crimes that would usually be under the control of the mafia. In this article, the RICO law will be analyzed in order to determine whether the RICO law has been a success and whether or not it has fulfilled its purpose after its implementation.

Organized crime has been a problem in the United States for more than a century. If we trace back in history, gangs seemed to gain power in the late 1890s and early 1900s on the East Coast and the Midwest. Most of these gangs started in Europe. Many of them were Irish, Russian, Dutch, and most famously, Italian. The most powerful of these mobs were the Italians. Many Italian immigrants were from Calabria, Naples, and Sicily. When they established themselves in the United States they began as local gangs that committed extortions, robberies and ran illicit businesses such as gambling and prostitution. These mobs actually became very rich during the 1920s Prohibition Era, when they saw an opportunity to get into the liquor trade which allowed them to create profit like never before.²

One of the problems that occurred was that gangs, especially the Italians in New York, were always engaged in an internal war over turf control. The biggest war was the Castellammare War between Salvatore Maranzano and

¹ William R. Geary, *The Creation of Rico*, Kluwer Academic Publishers, 2000, 329-367.

² *Origins of the Mafia*, History, May 28, 2019,

<https://www.history.com/topics/crime/origins-of-the-mafia>, (last visited March 31, 2021.)

Joe Masseria.³ This war ended with a bloody battle where both Maranzano and Masseria were killed. At the end of this battle, a man by the name of Charles “Lucky” Luciano established a commission, which meant there were going to be five families controlling New York City instead of a boss of bosses.⁴ Luciano, who was mentored for years by the famous gangster/gambler Arnold Rothstein, who fixed the 1919 World Series, learned that the mafia needed to move from being street gangs to business enterprises if they wanted to be legitimate and unnoticeable in front of authorities’ eyes.⁵ The previous examples during the Castellammare War and Al Capone’s flashy way of handling things put organized crime in the spotlight and made them easy targets for the police to chase.⁶

With the new family systems made by Lucky Luciano, one of the families would control a territory or one of the boroughs in New York City. These family administrations would be organized using the concept of a ranking authority.⁷ In order to be part of the family, you needed to be a Made Man and swear allegiance to the Omerta code which meant that they were part of La Cosa Nostra and would never give up any other family member or give information of this secret organization.⁸

³ David Critchley *Buster, Maranzano and the Castellammare War 1930-1931*, U.S. Department of Justice <https://www.ojp.gov/ncjrs/virtual-library/abstracts/buster-maranzano-and-castellammare-war-1930-1931>, (last visited March 31, 2021.)

⁴ *How is a Mafia Family Structured*, National Crime Syndicate, <https://www.nationalcrimesyndicate.com/mafia-family-structured/>, (last visited March 31, 2021.)

⁵ Daniel A. *Nathan Arnold Rothstein rigged the 1919 World Series. Or did he?*, Legal Affairs, https://www.legalaffairs.org/issues/March-April-2004/review_nathan_marapr04.msp, (last visited April 5, 2021.)

⁶ The Mob Museum, Lucky Luciano, https://themobmuseum.org/notable_names/lucky-luciano/, (last visited April 5, 2021.)

⁷ Id.

⁸ Adriana Nicole Cerami, *The Mafia's system of silence in communication, film and literature: perversions of society and transgressions of omertà*, <https://cdr.lib.unc.edu/concern/dissertations/kd17ct10k>, (last visited April 5, 2021.)

The National Crime Syndicate website described the structure in this way:

- The family would be organized as follows; on top would be the Crime Boss/Don, the Boss would have a counselor or advisor called the Consigliere. Under the Boss would be the Underboss and below the Underboss would be the Caporegimes. The lowest rank of Made men mobsters would be the soldiers. Families would also have associates but they were not part of the family, they just worked for them. With this system, it would be difficult to trace the family and it would make it even harder for the Don, who was the boss, to be charged with anything because they were not the one committing the crime directly.⁹

With the prohibition era over in the mid-1930s, the mafia moved into another business that would be the pillar of their future wealth post-prohibition, and this would be the heroin trade. The heroine trade would be established between La Cosa Nostra in the United States and European mobs such as the Sicilian Mafia and the Corsicans in France. With negotiations between Lucky Luciano and Joseph Bonanno and the Europeans, they would receive heroin into New York City through the port in Marseille, France¹⁰. The heroine would be imported from Turkey and the Sicilians and Corsicans would then send it overseas. This would be known as the French Connection. La Cosa Nostra would become very rich with this network and had a lot of influence in local politics and over law enforcement.¹¹ Yet with high crimes such as drug trafficking and murders, mob leaders were not able to be prosecuted.

⁹ *How is a Mafia Family Structured*, National Crime Syndicate, <https://www.nationalcrimesyndicate.com/mafia-family-structured/>, (last visited March 31, 2021.)

¹⁰ Intelligence Authorization Act For Fiscal Year 1999, *A Tangled Web: A History of CIA Complicity in Drug International Trafficking*https://fas.org/irp/congress/1998_cr/980507-1.htm, (last visited April 5, 2021.)

¹¹ James O. Finckenauer, *La Cosa Nostra In The United States*, <https://www.ojp.gov/pdffiles1/nij/218555.pdf>, (last visited April 5, 2021.)

Mobsters like Al Capone and Lucky Luciano, the two most powerful mobsters went to jail, Capone for tax evasion and Luciano for Prostitution.¹² Other mobsters were able to get away with many other crimes and didn't even spend time in prison. The war against the mob was being lost, drugs were flooding the streets of the United States and many murders were left unsolved because the people that ordered the murders were not the ones being sent to jail.

In the 1960s, the five families of New York, the Bonnano, Colombo, Gambino, Genovese, and Lucchese were gaining power over unions, construction projects, legal gambling and were infiltrating the legitimate business world. Attorney General Robert F. Kennedy made it a priority to go after the mob.¹³ He went after union leaders involved with the mafia-like Jimmy Hoffa and opened cases against many mobsters. This was when the first mobster, Joe Valachi from the Genovese family opened the can of worms that revealed the secret of the underworld mob.¹⁴ He exposed whose murders were committed, who gave the orders to commit the murders, and who was authorized to commit the murders.

The continuing drug consumption in the United States forced politicians and law enforcement to work together to bring down the mafia. President Nixon, in the beginning of his presidency in the late 1960s, declared war against drugs and with the help of Congress designed the law that would bring mob leaders to court. In 1970, President Nixon signed the Racketeer Influenced and Corrupt Organizations Act into law.¹⁵

¹² William Donati, *Lucky Luciano: The Rise and Fall of a Mob Boss*, McFarland & Company, Inc. Publishers, 2010, (last visited March 31, 2021.)

¹³ William R. Geary, *The Creation of Rico* (Kluwer Academic Publishers, 2000), 329-367, date, <https://link.springer.com/article/10.1023/A:1008359922135>, (last visited April 5, 2021.)

¹⁴ *Id.*

¹⁵ Andrew Glass, *President Richard Nixon signs anti-mob bill, Oct. 15, 1970*, Oct. 15, 2009, Politico, <https://www.politico.com/story/2009/10/president-richard-nixon-signs-anti-mob-bill-oct-15-1970-028286>, (last visited March 31, 2021.)

The difference between the RICO law and other laws that convicted mob leaders in the past was that a RICO law could send a mobster to jail for life. Mobsters like Luciano and Al Capone were only in jail for a couple of years and then they were released. After the RICO law was implemented, the crime bosses faced prison time for life. The first major test this law faced was the Mafia Commission Trial in 1985.¹⁶ Almost 11 crime figures faced trial under the RICO law.¹⁷ The prosecution was led by Rudy Giuliani. Some major crime figures convicted were men such as Carmine Persico, leader of the Colombo family.¹⁸ Persico participated in many murders within the Colombo family but he was convicted for loan-sharking, extortion, many murders, and even a plot to kill law enforcement agents and prosecutor Giuliani. He was sentenced to life in prison for his actions. In that same Mafia Commission Trial, Anthony Salerno, boss of the Genovese family was convicted. Tony Salerno was known as the richest mobster during his era. Salerno had an extensive life in the mafia, tracing back to the era of Vito Genovese in the 1960s. The other two mob leaders from the Lucchese family and Bonnano Family were also convicted with racketeering charges, these were Anthony Corallo and Philip Rustelli were also sentenced to life in prison. The leader of the Gambino crime family, Paul Castellano was also going to be indicted but was killed by John Gotti before going to trial.

The best example of the success of a RICO case can be with the famous crime boss, John Gotti of the Gambino Family. John Gotti, a celebrity among the mob because of his controversial way of doing things in the mob and because of some very important murders, was one of the Mob leaders affected by the RICO law. Gotti started in the Gambino Family when Carlo Gambino was the

¹⁶ John M. Doyle, *Defendants Convicted On All Charges in Mafia 'Commission' Trial*, Nov. 19, 1986, AP News, <https://apnews.com/article/299a3b9b2fb1ec096bc6368194444b89>, (last visited March 31, 2021.)

¹⁷ *Id.*

¹⁸ US Court of Appeals for the Second Circuit - 832 F.2d 705 (2d Cir. 1987), <https://law.justia.com/cases/federal/appellate-courts/F2/832/705/284457/>, (last visited April 5, 2021.)

Don in the early 1970s. Within the family, Gotti had a lot of enemies, one of them was Paul Castellano, who became the boss after Carlo Gambino passed away. John Gotti dealt with drugs, which went against the orders of Castellano. This led to a division among the Gambino Family. This feud ended with John Gotti killing Castellano and becoming the new Don of the family. In 1992, John Gotti was charged under the RICO law for many murders when his underboss Salvatore Gravano confessed and gave evidence that Gotti ordered many murders.¹⁹ Along with Gotti, his consigliere Frank Locascio was sentenced to life in prison.

Conclusion

In conclusion, if anything can be said about the RICO law, it is that it is efficient and it sends mobsters to jail and the sentence these mobsters receive is fair. The original gangsters like Lucky Luciano, Joseph Bonanno, and Joe Colombo did not get the sentence they deserved and some didn't even step foot in prison. After the RICO law was implemented, the five family bosses were convicted and were sentenced to life in prison. The RICO law fulfilled its purpose because it found a way to convict mobsters. Back in time, mobsters got away with murder and with drug trafficking. Most were convicted for not paying taxes, because it was the only thing that courts could convict them of. After the passage of RICO, mobsters actually went to jail for murder and trafficking-related crimes which is what law enforcement needs in order to keep fighting organized crime.

The system created by Lucky Luciano, which allowed the mafia to have multiple families instead of one big crew, made it difficult for law enforcement to get to them. The hierarchical structure within the family made it impossible to reach the person on top which is the Don, because in many occasions the people in the bottom, which are the soldiers who did the dirty

¹⁹ Jason Sabot, *Expert Testimony on Organized Crime Under the Federal Rules of Evidence* (Hofstra Law Review) 1-53.

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/hoflr22&div=12&id=&page=>, (last visited March 31, 2021.)

work, didn't even meet the mob boss because of the many layers in between them. On top of this, the people in the bottom, either soldiers or caporegimes, had their own businesses going on and didn't necessarily have direct involvement with the mobsters on top, they only paid their fee to have the protection and blessing from the godfather.

The creation of RICO, broke that barrier that law enforcement had. Congress identified the exact problem because through RICO, a prosecutor can accuse a mobster of two acts of racketeering and this would be enough to send them to jail for a while. The prosecutor would have to prove of course that this mobster has any type of involvement with such criminal structure they are accused of leading. But the framework created, facilitated everything for the U.S. Attorney's office because it gave them options on how to approach the case and indict these mobsters. Before RICO, they didn't have such framework to prove that a Don ordered a murder, smuggled drugs, or controlled gambling, in fact, there was no way of even proving there was such criminal structure or enterprise. It was hard to blame the person on top of something done by someone at the bottom. The implementation of RICO gave prosecutors the tools necessary to make a case that years before was impossible to prove because such structure was not even recognized. There was no such thing as mafia because the law didn't have the legal framework to detect such association. This is what made the mob successful, the organization they had. They had a hierarchy, measured operations, influence, and above everything, loyalty among their members. This secret society they formed made it impossible for law enforcement to detect participation of all involved.