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## Organized Crime Control Act of 1970: Introduction

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# LEGISLATIVE NOTES

## ORGANIZED CRIME CONTROL ACT OF 1970

### INTRODUCTION

The purpose of the Organized Crime Control Act of 1970 is to facilitate the eventual eradication of organized crime in the United States, by strengthening the evidence-gathering process, by adopting new penal prohibitions, and by creating increased sanctions and numerous remedies to deal with unlawful activities.<sup>1</sup> The primary thrust of the Act is aimed at three areas: the investigation of organized crime; the punishment of organized crime; and the examination of existing laws to determine their effectiveness in dealing with organized crime.<sup>2</sup>

The first five titles of the Act are designed to aid in the evidence-gathering process. The impetus for adoption of title I was primarily provided by the recommendations of the President's Crime Commission.<sup>3</sup> It establishes special grand juries to convene in large urban areas or in other areas at the direction of the Attorney General. Title II enables the convened grand jury to summon witnesses and compel them to speak by granting immunity from prosecution on the basis of their subsequent testimony. Civil contempt procedures for grand jury and court proceedings have been codified with respect to recalcitrant witnesses by adoption of title III. Title IV facilitates perjury prosecutions, and creates a new false declaration provision applicable in grand jury and court proceedings.

The provisions of title V authorize the Attorney General to provide protection for government witnesses and their families in cases involving organized crime. The major criticism of title V has been provided by the American Civil Liberties Union (A.C.L.U.), which, in turn, has prompted a strong rebuttal by Senator John L. McClellan.<sup>4</sup> The A.C.L.U. felt that "it would be desirable to

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\* The Introduction was written by J. Bryan Williams; the discussion of titles I, II, III and IV was written by Jeffrey J. Greenbaum; the discussion of titles VI and VII was written by Peter A. Kelly; the discussion of titles VIII, IX and X was written by Richard Levy.

<sup>1</sup> 116 CONG. REC. H9674 (daily ed., Oct. 6, 1970) (remarks of Congressman Donohue).

<sup>2</sup> *Id.* H9673 (remarks of Congressman Halpern).

<sup>3</sup> S. REP. NO. 91-617, 91st Cong., 1st Sess. 48 (1969) [hereinafter cited as SENATE REPORT].

<sup>4</sup> McClellan, *The Organized Crime Control Act (S. 30) or its Critics: Which Threatens Civil Liberties* 46 NOTRE DAME LAW. 55, 99-100 (1970).

make it perfectly clear that no witness can be unwillingly confined or detained in such facilities.”<sup>5</sup> However, this objection seems unfounded, since “[t]here is no requirement that anyone accept such an offer by the Attorney General.”<sup>6</sup>

Titles VI and VII ease the Government’s burden in the trial proceedings involving organized criminals. The preservation of testimony in criminal proceedings through the use of depositions is ensured by title VI. Moreover, title VII limits disclosure of information gained by the Government only to defendants challenging the admissibility of the evidence because it is the product of an illegal act.

Titles VIII and IX create substantive criminal offenses related to organized crime.<sup>7</sup> Large-scale gambling operations in violation of state law now have become federal crimes. Moreover, racketeering activity utilized to acquire, maintain or conduct a business has come within the group of civil and criminal remedies. Extended sentencing is provided for by title X, which establishes a postconviction presentencing procedure for determining whether the defendant is a habitual, professional or organized criminal.

Title XI of the Organized Crime Control Act implements federal controls over the transportation, importation, distribution and storage of explosives. This title, prompted by the national concern over increased criminal bombings, is not restricted to organized crime,<sup>8</sup> but rather is designed to assist generally the states in the effective regulation of the sale, transfer and other disposition of explosives within their borders.<sup>9</sup> In effect, this title requires all explosives manufacturers, importers, and dealers to obtain federal licenses; and requires all users that depend on interstate commerce to acquire explosives to obtain a permit.<sup>10</sup>

Title XII creates a National Commission on Individual Rights, to become effective in two years, which is to make a thorough review of federal laws and practices relating to the following: special grand juries; special offender sentencing authorized under

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<sup>5</sup> 116 CONG. REC. H9670 (daily ed., Oct. 6, 1970) (letter from A.C.L.U. to Congressman Bingham).

<sup>6</sup> SENATE REPORT 150.

<sup>7</sup> 116 CONG. REC. H9654 (daily ed., Oct. 6, 1970) (remarks of Congressman McCulloch).

<sup>8</sup> *Id.* H9658 (remarks of Congressman Poff).

<sup>9</sup> *Id.* H9654 (remarks of Congressman Celler). Bombing statistics gathered by the Treasury Department were cited to emphasize the inadequacy of existing federal and state laws regulating explosives and the need for uniform and stringent legislation. From January 1, 1969, to April 15, 1970, 4,330 bombings took place in the United States, 1,475 attempted bombings, and 35,125 bomb threats. As a result of these bombings, in a 15½ month period, forty-three people were killed and 384 injured. *Id.* H9657 (remarks of Congressman St. Germain).

<sup>10</sup> Remarks of Congressman Celler, *supra* note 9, at H9654.

the Organized Crime Control Act; electronic surveillance; bail reform; preventive detention; no-knock search warrants; and the accumulation of data on individuals by federal agencies. The charge of the Commission to perform a six-year study, with authorized interim reports, has been attacked by critics of the Act for failing to “make up for the immediate loss of individual rights which will come with S. 30” (now Organized Crime Control Act).<sup>11</sup> Since even supporters of the Organized Crime Control Act in Congress expressed their doubts about the legality of at least some provisions, the Commission hopefully will make an objective evaluation as soon as possible.

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<sup>11</sup> A.C.L.U. Letter to Congressman Bingham, *supra* note 5, at H9671.