

## **Organized Crime and the Response of Government**

### **SYLLABUS: SPRING 2018**

◆ ALL COURSE MATERIALS ARE AVAILABLE FROM OPEN SOURCE ONLINE SEARCHES OR OTHER STUDENT ACCESSABLE ONLINE LEGAL RESEARCH SERVICES OR THROUGH

**TWEN** (AS INDICATED) – the TWEN COURSE TITLE IS

**ORGANIZED CRIME & RESP OF GOV'T** - LAW-2726-E

AND THE PASSWORD IS 1953

### **Class Number 1 (Jan 11): Introduction to the Course**

Introduction to the course/OC/Current & Pending Legislative Responses

### **Class Numbers 2 & 3 (Jan 18 & 25): What is Organized Crime, a History of Organized Crime in US & NY/NJ; Why the Port of New York/New Jersey Waterfront is susceptible to the influence of Organized Crime**

Readings in anticipation of class discussion:

- ▶ 98<sup>th</sup> Congress 2d Session- Senate – Report 98-369, March 27, 1984 (TWEN)
- ▶ “*Corruption and Racketeering in the New York City Construction Industry: An Interim Report By the New York State Organized Crime Taskforce*” (Parts II & III) (TWEN)
- ▶ Statement Submitted To The Waterfront Commission of New York Harbor – Seven Decades Of Labor Racketeering On The Waterfront In New Jersey – Exhibit 7B – Waterfront Commission Public Hearing December 2, 2010 (TWEN)
- ▶ “*The Racket-Ridden Longshoremen*”; Chapter 9 from *The End of Ideology*, Daniel Bell (TWEN)
- ▶ “*Fourth Report of the New York State Crime Commission (Port of New York Waterfront) To The Governor, The Attorney General and Legislature of the State of New York*”, May 20, 1953 (TWEN)
- ▶ “*Shape-up and Hiring Halls*”, (Chapter 2), Charles P. Larowe (TWEN)
- ▶ “*Crime on the Labor Front*”, Malcolm Johnson (Chapter 10)
- ▶ “*The Waterfront Revisited*”, Budd Shulberg - Saturday Evening Post, September 7, 1963, 236<sup>th</sup> Year, Issue No. 30 (TWEN)

### **Class Number 4 (Feb 1): RICO/OCCA and other alternative responses**

Racketeer Influence and Corrupt Organizations (RICO) statute & Organized Crime Control Act (OCCA); discussion of Inspector Generals (IG's, Independent IG's, Deferred Prosecution Agreements

Readings in anticipation of class discussion:

- ▶ Racketeered Influenced and Corrupt Organizations Act (RICO), 18 USC §1961-1968
- ▶ New York State Penal Law, Part 4, Title X, Article 460-480
- ▶ “*On the Waterfront*”: *RICO and Labor Racketeering*; G. Robert Blakey and Ronald Goldstock, *American Criminal Law Review* Vol.17:34 (TWEN)
- ▶ “*Labor Racketeering: The Mafia and the Unions*”; James B. Jacobs and Ellen Peters, *Crime and Justice A Review of Research*, Volume 30
- ▶ *United States v International Longshoremen's Association, AFL-CIO et. al.* 05-cv-3212
- ▶ *United States v Stephen Depiro, et. al.*, 10 Cr. 851 & Superseding Information (TWEN)
- ▶ *Worldcare International v Kay* 17452-2011, NYLJ 120256645118298
- ▶ *US v Pica* 2012 Docket No 10-5026-cr

## **Class Number 5 (Feb 8): How organized crime leverages unionism & Federal Labor Law/Policy responses**

### Readings in anticipation of class discussion:

- ▶ “*Crime on the Labor Front*“, Malcolm Johnson (Chapter 1- Labor Gangsterism) (TWEN)
- ▶ Preamble to National Labor Relation Act - 29 USC §151
- ▶ Preamble to Taft-Hartley Act - 29 USC §401-531
- ▶ Collective Bargaining Agreement Between the New York Shipping Association and the International Longshoremen’s Association, AFL-CIO (Exhibit 1-E Waterfront Commission Public Hearing November 14, 2010 (TWEN)
- ▶ United States v Stephen Depiro, et. al., 10 Cr. 851 (TWEN)
- ▶ Crime and Justice - A Review of Research Volume 30 - “Labor Racketeering: The Mafia and the Unions, James B. Jacobs and Ellen Peters

## **Class Number 6 (Feb 15): Shop Stewards & Taft-Hartley**

### Readings in anticipation of class discussion:

- ▶ Collective Bargaining Agreement Between the New York Shipping Association and the International Longshoremen’s Association, AFL-CIO, Article II, Section 4 (TWEN)
- ▶ Record of Hearings Held By the Waterfront Commission of New York Harbor on October 21, 2010 (TWEN)
- ▶ 29 USC 186

## **Class Numbers 7 & 8 (Feb 22 & Mar 1): Government Responses & the Waterfront Commission Act –**

The Waterfront Commission Act and the various mechanisms the legislation puts into place in an attempt to rid the Port of identified problems.

### Readings in anticipation of class discussion:

- ▶ Fourth Report of the New York State Crime Commission (Port of New York Waterfront) To The Governor, The Attorney General and Legislature of the State of New York, May 20, 1953 (TWEN)
- ▶ State of New York State Record of the Public Hearings Held By Governor Thomas E. Dewey on the Recommendations of the New York State Crime Commission For Remedying Conditions on the Waterfront of the Port of New York, June 8 & 9, 1953 (HEINONLINE)
- ▶ The Waterfront Commission Act (see [www.wcnyh.gov](http://www.wcnyh.gov))
- ▶ The Rules and Regulations of the Waterfront Commission of New York Harbor (see [www.wcnyh.gov](http://www.wcnyh.gov))
- ▶ Linehan v. Waterfront Commission of New York Harbor, 116 F. Supp. 683 (1953)
- ▶ Staten Island Loaders, Inc. v. Waterfront Commission of New York Harbor, 117 F. Supp. 308 (1953); Linehan v. Waterfront Commission of New York Harbor & Staten Island Loaders, Inc. v. Waterfront Commission of New York Harbor, 74 S. Ct. 849 (1954)
- ▶ William V. Bradley v. Waterfront Comm. of New York Harbor, 130 F. Supp. 303 (1954)
- ▶ Continental Terminals, Inc. v. Waterfront Comm. of NY Harbor, 486 F. Supp. 1110 (1980)
- ▶ Waterfront Commission of New York Harbor v Mercedes-Benz of North America, Inc., 99 N.J. 402; 493 A.2d 504 (1985)
- ▶ Waterfront Comm. of New York Harbor v Construction and Marine Equipment Company, Inc., 928 F. Supp. 1388 (1996)
- ▶ Waterfront Comm. of NY Harbor v Elizabeth-Newark Shipping, Inc. 164 F.3d 177 (1998)
- ▶ NYSA-ILA Vacation and Holiday Funds v Waterfront Commission, 732 F.2d 292 (1985)

**Class Number 9 (Mar 8): The Waterfront Commission Act and the “Association Provision”** The “Association Provisions” of the Waterfront Act

Readings in anticipation of class discussion:

- ▶ The Waterfront Commission Act, Part II, Section 5-h(6) & (7) and Part II, Section 5-I(6) & (7)
- ▶ Proceeding on the Initiative of the Waterfront Commission to Revoke, Cancel or Suspend the License of Pasquale Pontoriero as a Hiring Agent - Hearing Transcript, Exhibit 28, Hearing Officer’s Report & Waterfront Commission Order (TWEN)
- ▶ Proceeding on the Initiative of the Waterfront Commission to Revoke, Cancel or Suspend the Registration of Margaret “Margo” Dillin as a Longshoreperson - Hearing Officer’s Report (TWEN)

**Class Number 10 (Mar 15): The Waterfront Commission Act and the Collective Bargaining Safeguard**

Section 8 of the Waterfront Commission: barring certain convicts from holding Union office; police power of the State to regulate vis-à-vis the NLRA & Taft-Hartley.

Readings in anticipation of class discussion:

- ▶ The Waterfront Commission Act, Part I, Article XV and Part III, Section 8, 8-a & 8-b
- ▶ The Rules and Regulations of the Waterfront Commission of New York Harbor, Part 7
- ▶ “*Strife on the Waterfront; The Port of New York Since 1945*“, Vernon H. Jensen (Chapters 18) (TWEN)
- ▶ Thomas Hazelton and Nicholas Machucci v Frank Murray, Chester Jurgelski, James Calabrese and Local 1247 ILA and State of New Jersey, 21 N.J. 115; 121 A.2d 1 (1956)
- ▶ George De Veau v John M. Braisted, Jr. as District Attorney of Richmond County, 80 S.Ct. 1146 (1960)
- ▶ New York Shipping Association, Inc. and International Longshoremen’s Association, AFL-CIO v Waterfront Commission of New York Harbor, United States District Court of New Jersey, Civil Action No 78-995 (1978); Affirmed 582 F.2d 1275 (1978) (TWEN)
- ▶ International Longshoremen’s Association, AFL-CIO et. al. v Waterfront Commission of New York Harbor, et. al. 642 F.2d 666 (2D Cir. 1981)
- ▶ Local 1804, International Longshoremen’s Association, AFL-CIO, Local 1804-1, International Longshoremen’s Association, AFL-CIO and James Cashin v Waterfront Commission of New York Harbor 85 N.J. 606; 428 A.2d 1283 (1981)
- ▶ Waterfront Commission of New York Harbor v Sea Land Services, Inc. et. al., 764 F.2d 961 (1985)
- ▶ Hotel and Restaurant Employees Local 54 & IBT v Danzinger et. al. 709 F. 2d 815, 113 L.R.R.M (BNA) 2868
- ▶ Brown et. al. v Hotel and Restaurant Employees Local 54 & IBT v Danzinger et. al. 104 S.Ct. 3179, 116 L.R.R.M (BNA) 2921

### **Class Number 11 (Mar 22): The Waterfront Commission Act**

The due process safeguards in the act, administrative law, statutory authority, and the standard of review.

#### **Readings in anticipation of class discussion:**

- ▶ The Waterfront Commission Act, Part I, Article XI
- ▶ The Rules and Regulations of the Waterfront Commission of New York Harbor, Part 6
- ▶ Matter of Anthony Rispoli & William Donoughe: Hearing Officer's Report; Waterfront Commission Order; Article 78 Appeal (TWEN)
- ▶ Chevron USA, Inc. v NRDC, 467 US 837 (1984)
- ▶ 73 C.J.S. Public Administrative Law and Procedure §136
- ▶ 33 Fed. Prac. & Proc. Judicial Review §8353 (1<sup>st</sup> ed.)
- ▶ 33 Fed. Prac. & Proc. Judicial Review §8382 (1<sup>st</sup> ed.)
- ▶ 4 Admin. L. & Prac. §11:33 (3d ed.)

### **Class Number 12 (April 5): Recent Waterfront Commission Responses**

Efforts by the Waterfront Commission of New York Harbor to encourage changes to labor practices in the Port of New York/New Jersey

#### **Readings in anticipation of class discussion:**

- ▶ The Waterfront Commission Act, Section 5-p
- ▶ Waterfront Commission Determinations 23 (TWEN)
- ▶ Waterfront Commission Determinations 25 (TWEN)
- ▶ Waterfront Commission Determinations 35 (TWEN)
- ▶ Waterfront Commission May 9, 2011 Resolution (TWEN)
- ▶ March 22, 2013 Letter of Harold Daggett, To: All ILA Members in the Port of New York/New Jersey (Open Source [www.ila.org/news](http://www.ila.org/news))
- ▶ Waterfront Commission Determinations 35 (TWEN)
- ▶ Thomas Bozzi et. al. v Waterfront Commission, 90 Civ. 0926 (MGC), United States District Court For The Southern District of New York
- ▶ The Rules and Regulations of the Waterfront Commission, Part 7.5

### **Class Numbers 13 and 14 (April 12 & 19): OC Response Legislative Drafting & Lobbying**

Drafting legislation to create, modify or revoke legislation in response to OC. Mock lobbying the proposals.

## **Attendance and Grading**

**5% Attendance & Class Participation**

**10% Outline For Final Paper** (see below)

**10% Presentation & Participation – Legislative Drafting  
and Mock Lobbying**

**75% FINAL PAPER – Organized Crime negatively impacts our society and economy. To counter these negative impacts, our Government (Federal and State) have enacted various legislative (criminal, civil & regulatory statutes). These types of Governmental actions are also initiated in response to many other societal problems and ills. You will be challenged to draft a legislative or regulatory response to Organized Crime, provide support on how this legislation or regulation will deter Organized Criminal activity (how the legislation or regulation undermines the common elements/goals of Organized Crime groups) and provide legal support for the Constitutionality of the proposed legislation or regulation. This legislative or regulatory response could be an entirely new piece of Federal or State legislation or a modification of/to (include an argument to repeal) an existing Federal or State law or regulation. The course surveys a number of legislative and regulatory responses – it is imperative that students attend class in order to be exposed to the full range of potential Final Paper topics in order to formulate their Final Paper topic.**

**As our body of laws develop and are modified in response to societal norms and ills, in partaking in this exercise, you will be developing skills that will enable you to analyze any existing legislation or regulation you encounter in any practice of law and, as our potential future law makers or influencers, to critically review not just what the law IS, but perhaps what the law SHOULD BE.**