

INTRODUCTION

The State Commission of Investigation was created in 1968 to fulfill a unique, multi-faceted mission of vital importance to the citizens of New Jersey: to attack organized crime and political corruption; to root out waste, fraud and abuse of taxpayer dollars; to shed light on matters that threaten public peace, justice and safety; and to recommend appropriate reforms and improvements in laws and in the operations of government. The Commission was given an extraordinary mandate: to pursue this all within a framework untainted by political intrusion or favoritism.

Twenty-seven years later, this fundamental investigatory and fact-finding mission — as well as the need for an independent, nonpolitical entity to carry it out — remains no less vital.

During 1994, the Commission extended its record of exemplary public service with a series of investigations and reports that exposed negligence, misconduct, misuse of public funds and evidence of criminal wrongdoing at various levels of government in New Jersey.

A Commission probe of irregularities at Marlboro State Psychiatric Hospital revealed a tableau of waste, thievery and corruption in which the squandering of taxpayer money — estimated at more than \$2 million overall — had become the institutional version of business as usual. The report of the Commission's findings, including recommendations for personnel disciplinary sanctions, criminal investigations and greater oversight and accountability of taxpayer dollars, spurred reform actions by at least two cabinet-level agencies, the departments of Human Services and Treasury.

On another front, in pursuit of a comprehensive and unprecedented statewide assault on local government corruption first launched in 1992, the Commission during 1994 detailed wide-ranging evidence of fraud and taxpayer abuse in the Borough of Jamesburg, Middlesex County, and in Ocean

County's Point Pleasant School District. In addition to providing the foundation for appropriate personnel changes, criminal prosecutions and governmental reforms at the grass-roots level, these cases exemplified the Commission's ultimate value to New Jerseyans. In each instance, the investigations were undertaken after local taxpayers, having been rebuffed in their search for redress and investigative assistance elsewhere in government, approached the Commission as a last resort — and got results. The Commission's efforts in this area were formally memorialized in official resolutions of support enacted by the governing boards of the Borough of Jamesburg and the Township of Manchester.

The past year also was highlighted by the positive resolution of a number of statutory reforms and prosecutorial actions recommended by earlier Commission investigations.

In October, for example, less than a year after Commission hearings produced the framework for an attack on the deleterious effects of money laundering — and within months of a July 1994 Commission report — the Legislature enacted and Governor Whitman signed into law a measure making the practice of money laundering an explicit crime under state law. Within weeks of the bill-signing, the new statute was employed by prosecutors against suspects charged with participating in the money-laundering underworld.

Building on the Commission's groundbreaking assessment of criminal street gangs in New Jersey, the Governor in 1994 expanded into a bureau the Division of Criminal Justice's Office of Juvenile Justice. The new bureau was charged with further implementation of the Division's Youth Gang Initiative, which responded to the Commission's June 1993 public hearing on criminal street gangs. The Commission's survey regarding criminal street gangs was the first attempt to quantify the problem on a statewide basis, determining that more than 700 gangs operated within the state. After forming a Street Gang Unit in its Intelligence Services Section in response to the Commission's gang project, the State Police produced in July 1994 a "Strategic Assessment of Criminal Street Gangs in New Jersey."

In a March 17, 1994 executive order, Governor Whitman listed the Commission's report, Criminal Street Gangs, which was published in February 1994, as an important resource to be utilized by her Advisory Council on Juvenile Justice. The Council's Final Report, dated December 30, 1994, included many recommendations similar to those contained in the Commission's report. The Council's report pointed out expanded activity in 1994 by the Division of Criminal Justice, State Police, county prosecutors and the Department of Corrections to address the problem of youth gangs.

Also, the Commission's probe of fraud and abuse in New Jersey Transit's \$5 million bus subsidy program came to fruition in December when five individuals entered guilty pleas in state Superior Court. The defendants also agreed to pay more than \$750,000 in restitution to the taxpayers. The 1992 report of the Commission's investigation had previously resulted in a wide range of operational reforms undertaken internally by NJ Transit officials.

In sum, 1994 proved to be one of the most productive years in the Commission's entire history — despite fiscal constraints that have reduced its annual appropriation from \$2.8 million to \$1.9 million and its staff from 45 to 29 employees over the past five years. Based upon a demonstrable and continuing record of accomplishment in the face of this challenge to “do more with less,” this body can lay claim to an impressive statement of fact that eludes other elements of government: The State Commission of Investigation has saved taxpayers far more money than they have ever invested in its operations.

HISTORY

The Commission was established in 1968 after extensive research and public hearings by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey (the “Forsythe Committee”). That panel was directed by the Legislature to find ways to correct a serious and intensifying problem involving organized crime and political corruption. The panel's final report,

which confirmed a crisis in crime control, attributed the expanding activities of organized crime in New Jersey to “failure ... in the system itself, official corruption, or both.” As a result, sweeping recommendations for improving various areas of the state’s criminal justice system were proposed.

Two of the most significant recommendations were for the creation of a new criminal justice unit within the executive branch and the establishment of an independent State Commission of Investigation. The Forsythe Committee envisioned the proposed criminal justice unit and the Commission of Investigation as complementary agencies in the fight against crime and corruption. The criminal justice unit was to be a large organization with extensive personnel, empowered to coordinate and conduct criminal investigations and prosecutions throughout the state. The Commission of Investigation was to be a relatively small but expert body that would conduct fact-finding investigations, bring the facts to the public’s attention, refer its findings to appropriate law enforcement agencies for possible prosecution and make recommendations to the Governor and the Legislature for improvements in laws and the operations of government.

As the Forsythe Committee stated in its final report, this would not be “a ‘crime commission’ alone. There are many occasions when hard-hitting, expert fact-finding is needed without involving the criminal process or implying criminal violations are under investigation....This Commission will provide a significant, independent ‘watchdog’ for the entire system of administering criminal justice in New Jersey....”

As a result of the Forsythe Committee’s recommendations, the Division of Criminal Justice in the Department of Law and Public Safety and the State Commission of Investigation, structured as an independent agency of the Legislature, were created. New laws were designed — effectively so — to prevent conflict and duplication among the functions of the Commission and the prosecutorial authori

ties of the State. The Commission has the responsibility to expose wrongdoing or governmental laxness by fact-finding investigations and to recommend new laws and other remedies to protect the integrity of the governmental process. The Division of Criminal Justice and other prosecutorial agencies have the responsibility to seek indictments or file other charges of violations of law and to bring the violators to justice, where appropriate.

The bill creating the Commission established an initial term beginning January 1, 1969, and ending December 31, 1974. The Legislature extended the term of the SCI for five-year periods on four subsequent occasions: in 1973 for a term expiring December 31, 1979; in 1979 for a term expiring December 31, 1984; in 1984 for a term expiring December 31, 1989, and in 1989 for a term expiring on December 31, 1994. On Dec. 28, 1994, legislation took effect extending the Commission's term through June 30, 1996, pending the outcome of a review by a special committee appointed by the Governor and leaders of the Legislature.

The unique and complementary role of the SCI was noted in two earlier comprehensive and impartial analyses of the Commission's record and performance — in 1975 by the Governor's Committee to Evaluate the SCI and again in 1983 by the State Commission of Investigation Review Committee. Both reports stated that the SCI performs a valuable function and strongly concluded that there is a continuing need for the Commission's work. The 1983 review panel said its advocacy of the Commission was reinforced by the views of top law enforcement officials throughout the state that the SCI "continues to serve as an important adjunct to New Jersey's criminal justice system." Today, as then, the agency continues to effectively play that role.

OPERATIONS

To eliminate even the appearance of political influence in the Commission's operations, no more than two of the four Commissioners may be of the same political party, and they derive from three separate appointing authorities. Two Commissioners are appointed by the Governor and one each by the President of the Senate and the Speaker of the Assembly. It thus may be said the Commission by law is bipartisan and, by concern and action, is nonpartisan. This central construct provides the Commission with the integrity and the independent stature necessary to perform its job in a credible fashion, especially where politically-charged or otherwise sensitive investigations are concerned.

The Commission is invested with the duty and power to conduct investigations in connection with:

- (a) The faithful execution and effective enforcement of laws of the state, with particular reference but not limited to organized crime and racketeering;
- (b) The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;
- (c) Any matter concerning the public peace, public safety and public justice.

The enabling statute provides further that the Commission shall, by direction of the Governor or by concurrent resolution of the Legislature, conduct investigations and otherwise assist in connection with the removal of public officers and in the making of recommendations to the Governor and the Legislature with respect to changes in existing law required for more effective enforcement. The Commission is also empowered to investigate the management or affairs of any department, board, bureau, commission, authority or other agency created by the state, or to which the state is a party.

The statute assigns to the Commission a wide range of responsibilities and powers. It may conduct public and private hearings, compel testimony and the production of other evidence by sub-

poena and grant limited immunity from prosecution to witnesses. Since the Commission does not have prosecutorial functions, it is required to refer information of possible criminality to the Attorney General. The Commission has done this repeatedly in the past and continues to do so in keeping with a primary goal of fostering cooperation involving law enforcement agencies at all levels of government.

One of the Commission's primary responsibilities, when it uncovers irregularities, improprieties, misconduct or corruption, is to bring its findings to the attention of the public with the objective of promoting remedies and reforms. The Commission chooses the format for its public actions based on the complexity of the subject and the clarity, accuracy and thoroughness with which the facts can be presented. The Commission has proceeded by way of public hearings, a public report or both.

In its proceedings, witnesses appearing before the Commission are protected by the New Jersey Code of Fair Procedure, the requirements of which were incorporated in the Commission's enabling statute in 1979. Constitutionally required due process is provided under the provisions of that code, and the courts have upheld the integrity and fairness of the Commission's investigative procedures. For example, all witnesses are offered the right to be represented by counsel when appearing before the Commission in public or private hearings.

Additionally, any individual who may be adversely affected by the testimony or other evidence presented in a public report or hearing by the Commission is given an opportunity to respond by making a statement under oath relevant to the testimony or other evidence. Such statements, subject to a determination of relevancy, are incorporated in the records of the Commission's public proceedings. Before undertaking a public action, the Commission has always been careful to evaluate investigative data in private in keeping with its obligation to avoid unnecessary stigma and embarrassment to individuals.

The Commission emphasizes that indictments and convictions which may result from referral of criminal matters to other agencies are not the only test of the efficacy of its public actions. At least as important is the deterrent effect deriving from the Commission's very existence as well as the corrective statutory and regulatory reforms spurred by the Commission's arousal of public and legislative interest. A prime example involved the enactment of legislation in the wake of a 1992 Commission probe of a massive, mob-inspired scheme to evade taxes on motor fuels. According to the state Division of Taxation, that statutory change alone has enabled the state to recover an estimated \$22 million annually in tax revenues.

The Commission takes particular pride in this and in numerous other investigations and reports that have similarly resulted in taxpayer savings and in improved laws and governmental operations throughout its existence.

INVESTIGATIONS, HEARINGS AND REPORTS - 1994

Organized Crime: *Money Laundering*

Over the past decade, the Commission repeatedly has highlighted concern over the deleterious effects of money laundering — particularly in the absence of a state law that would make this practice a crime in New Jersey. The Commission first called for a money laundering control statute in its 1988 report on the check-cashing industry. Money laundering was also addressed in subsequent Commission investigations into Afro-lineal organized crime (1991), motor fuel tax evasion (1992) and organized crime control of bars (1992).

In July 1994, the Commission issued a comprehensive report following public hearings convened in late 1993 to put a direct and explicit focus on money laundering. The picture that emerged was a disturbing one. Witnesses, including a range of state and federal law enforcement officials, repeatedly pointed out that New Jersey — by virtue of its geographic location as a corridor state, its airports and seaports, its close proximity to New York City and Philadelphia, its population density and its casinos — is particularly vulnerable to this enormous financial criminal enterprise. Numerous and ingenious means and methods of concealing this illicit cash stream were exposed in detail.

Witnesses also told the Commission that substantial New Jersey income is avoiding taxation at both the federal and state levels and that the impact on New Jersey's economy is significant. The dollar amounts involved in money laundering are staggering. Several witnesses estimated that, on a national scale, money laundering involved as much as \$150 billion per year, with between \$1 billion and \$2 billion passing through New Jersey alone.

Conclusions and Recommendations

As a result of its findings, the Commission concluded that New Jersey should enact a state statute explicitly outlawing money laundering to provide authorities with a new basis to attack the financial facilitation of crime.

On October 27, 1994, following overwhelming approval by the Senate and Assembly, Governor Whitman signed legislation embodying the Commission's central recommendations. Among other things, the measure makes the laundering of amounts of \$75,000 or more a crime of the second degree, punishable by five to 10 years in prison. The laundering of small amounts is a crime of the third degree, carrying a penalty of three to five years in prison. The law also prohibits any financial transaction involving property known to have been derived from criminal activity, with the intent of promoting criminal activity or with the knowledge that the transaction is designed to disguise ownership or to avoid a currency transaction reporting requirement under state or federal law.

In its final report, however, the Commission had also noted that no money laundering statutory scheme would be complete without true reform of the kinds of financial machinery, such as the check-cashing industry, that fosters money laundering in the first place. New Jersey's weak regulation of non-bank financial institutions, like check cashers and money remitters, continues to permit this state to serve as a haven for such activities.

The Commission recommended that check cashers be prohibited from cashing checks made payable to other than a natural person, thereby eliminating any checks payable to business entities, trade names, etc. They should also be prohibited from cashing checks in excess of a specific dollar amount, except for government and insurance checks. Moreover, any business cashing a high dollar amount of checks as a secondary part of its business should be subject to record-keeping provisions whether or not a fee is charged. Legislative hearings should determine when such provisions would be applicable, with a view toward minimizing the burden placed on legitimate businesses.

These key reform provisions, which had been recommended during the Commission's garment and check-cashing investigations, were not enacted into law when the Check Cashers Regulatory Act was passed in January 1994. In late 1993, they were deleted by legislative committee from the pending bill due, in part, to pressure from lobbyists representing the check-cashing industry. The commission continues to urge the passage of these safeguards.

Organized Crime: *Medical Provider Contracts*

The Commission examined questionable circumstances and evidence of mob intrusion surrounding the award of various health-care service and supply contracts to institutions in Passaic and Essex coun-

ties. The findings were detailed in separate November 1994 letters to Passaic County Freeholder Director John C. Morley and Essex County Freeholder Director Sara B. Bost.

In mid-1992, officials of Preakness Hospital in Passaic County became aware, through newspaper reports, that James Yacenda had been publicly identified by the Commission as being involved in enterprises that served as fronts for the Taccetta faction of the Lucchese organized crime group operating in New Jersey. The Preakness officials reported to the Commission that in November 1991 Preakness had awarded a two-year, no-bid Medicare Part B provider contract to American Home Medical Services, Inc., a company directed by Yacenda. Unknown to Preakness officials, the Commission had already commenced inquiries concerning Yacenda's activities, as well as those of the other American Home Medical director, Louis A. Garruto, and Martin Taccetta, a member of the Lucchese group.

Offering his services as an unpaid consultant, and misrepresenting to Preakness officials and others that he was a registered pharmacist, Garruto, on March 5, 1991, entered into a no-bid contract with Preakness to recommend third-party providers of supplies and services to its patients. When he was engaged as a consultant, Garruto's 1985 federal conviction for participating in a scheme to defraud drug companies in New York was unknown to Preakness officials.

Shortly before resigning as a consultant in late 1991 or early 1992, Garruto secured a contract for his and Yacenda's corporation, American Home Medical, to become Preakness' Medicare Part B provider. This obvious conflict was overlooked by Preakness officials — most notably by Donald R. Kowal, then-president of the Preakness Board of Managers and the person most responsible for engaging Garruto as a consultant and contracting with American Home Medical. Minutes of hospital board meetings did not reflect that it approved either Garruto's consultant contract or the contract with American

Home Medical. Indeed, two audio cassettes of Board meetings, which might have shed light on the approval process, were blank. The Commission was unable to obtain a satisfactory explanation for the condition of the cassettes.

The Commission pointed out that competitive bidding of professional service contracts lessens the opportunities for abuses of the kind encountered in this investigation. The Commission had previously urged the Legislature to consider eliminating or modifying the professional services exemption from laws requiring bidding on public contracts. At present, however, nothing precludes local governments from conducting their own assessments of benefits derivable from competitive bidding for such contracts and implementing appropriate procedures.

In a separate letter to Essex County Freeholder Director Bost, the Commission reported on similar no-bid contracts to provide pharmaceutical services and unit-dose medications to patients at the Essex County Hospital Center, Jail, Jail Annex and Geriatric Center. The firms involved were American Home Medical Services, Inc., and American Preferred Prescription Services, Inc., both tied to Yacenda and Garruto. Originally submitted by the County Executive and approved by the Board of Freeholders on May 26, 1993, and scheduled to start on June 1, 1993, the contracts were amended on June 16, 1993 to be in effect from August 1, 1993 through July 1994. Later, they were extended to February 1995.

On January 29, 1992, American Home Medical had paid \$500 for an advertisement honoring then-County Executive Thomas J. D'Alessio in the 1992 Anniversary Ball program. On February 6, 1992, American Home had paid \$5,000 to the "Anniversary Ball Committee" to purchase a 10-ticket table for a reception honoring D'Alessio at the Parsippany Hilton on February 22, 1992. A Statement of Certain Political Contributions, signed by Louis A. Garruto, then-President of the two corporations, and appended to the contract proposal, listed the \$500 contribution but not the one for \$5,000.

American Home Medical and American Preferred Prescription replaced Automated Pharmaceutical Services, which had contracted to supply pharmaceuticals to patients of the four county facilities for the previous 12 years. In early 1993, D'Alessio's office recommended American Home Medical and American Preferred Prescription to Essex County purchasing officials. When a comparison of proposal costs revealed that Automated Pharmaceutical's proposal was in excess of \$100,000 less than American Home's proposal, American Home Medical and American Preferred Prescription reduced their price by approximately \$106,000. Although their price was still higher than the final price offered by Automated Pharmaceutical, and they were new and largely unproven firms, American Home and American Preferred were awarded the contracts.

The Commission confirmed that Garruto had been convicted in federal court in 1985 for participating in a scheme to defraud drug companies in New York. The Commission did not encounter evidence of any similar scheme involving Garruto's companies and Essex County's facilities. However, Yacenda, the original Vice President of American Home Medical, was publicly identified by the Commission as being involved in enterprises that served as fronts for the Taccetta faction of the Lucchese organized crime group.

As pointed out in the letter to the Passaic County Freeholder Director regarding Garruto, Yacenda, Martin Taccetta and American Home Medical, competitive bidding of professional service contracts lessens the opportunities for these types of abuses.

Local Government Corruption: *Borough of Jamesburg*

In September 1992, the Commission issued a report detailing New Jersey's continuing experience with corruption in local government, school districts and public authorities. At that time, the

Commission announced its intention to launch continuing attacks against corruption at the local level and against the conditions which sustain and encourage it. Restoration of the public's confidence in local governance and elimination of a substantial waste of public money were the stated goals of this initiative.

The Commission launched such an investigation into the governmental operations of the Borough of Jamesburg, Middlesex County, in February 1993 after receiving citizen complaints alleging political corruption and taxpayer abuse at the hands of key municipal officials. Numerous residents who approached the Commission said they did so as a last resort after being rebuffed in their search for redress and investigative help from other government agencies.

The subsequent 21-month probe confirmed the worst of their complaints — and much more. The Commission, in a report issued in November 1994, reported that it had uncovered a systemic pattern of official misconduct, nepotism and abuse of the public trust so pervasive in this community as to cause local budgetary hardships and jeopardize the local police department's ability to finance its operations.

Substantial sums of taxpayer money were wasted, or stolen outright. Developers reaped tax breaks and other favors in exchange for kickbacks. Political patronage undermined the police department's budget. State election and campaign-finance laws were violated routinely. Accumulated sick leave and compensatory time were abused to the detriment of local taxpayers. Underlying and facilitating all of this was an utter lack of proper and effective mechanisms to ensure accountability and internal control, the very absence of which made Jamesburg an easy mark for abuse by unscrupulous and overbearing individuals intent on using public office for personal gain.

Major Findings

KICKBACKS/CONFLICTS OF INTEREST/FRAUD

* The son of Jamesburg Tax Assessor and Planning Board member Carmen “Pep” Pirre, Anthony Pirre, was placed on the payroll of two local land developers as a “security guard” as part of a possible kickback arrangement involving the Beaver Brook Run and Quarry Cove development projects.

* At least one-third of the more than \$150,000 paid to Anthony Pirre between 1986 and 1992 by the developers of Beaver Brook Run and Quarry Cove was traced to Carmen Pirre. This arrangement coincided with tax and Planning Board decisions favoring both developers.

* Anthony Pirre also was employed by the Middlesex County Parks Department. While on paid leave from the department for injuries purportedly suffered on the job there, he continued to bill and be paid for supplying private security service to the two developers. Investigators found evidence, however, to suggest that Anthony Pirre actually performed little or no service in this security capacity.

CAMPAIGN AND ELECTION IMPROPRIETIES

* The Jamesburg Democratic Party organization — of which Carmen Pirre served as both chairman and treasurer — failed to file periodic campaign-finance reports for one of its two fund-raising accounts with the state Election Law Enforcement Commission (ELEC), as required by law.

* Between 1991-93, more than half of \$11,620 deposited into the Jamesburg Democratic organization’s two accounts — a total of \$6,634 — found its way into Carmen Pirre’s personal control.

* Political contributions were collected from local business owners and used as “street money” to pay campaign workers, some of whom also were paid with bottles of liquor. Witnesses told the Commission that Carmen Pirre paid them as much as \$200 cash apiece in exchange for political activities at election time.

PATRONAGE VERSUS FISCAL RESPONSIBILITY

* Municipal officials, including Police Chief Victor Knowles, agreed to delay the purchase of a needed police patrol car in order to reserve funds for the hiring of Mayor Joseph Tonkery’s grandson, Robert Tonkery, as a probationary police officer. Although Tonkery was hired, the car was purchased anyway, triggering a fiscal crisis.

ABUSE OF ACCUMULATED SICK/COMPENSATORY LEAVE

* A review of Borough records and the testimony of various witnesses demonstrated that the untimely hiring of Tonkery’s grandson coincided with payments to two retiring police officers for large amounts of accumulated leave time — payments that caused additional pressure on the police department budget.

* The payments for accumulated leave were made even though there were no official records on file with the Borough to corroborate the claims. Borough employees told the Commission of a haphazard record-keeping system. As one member of the Borough Council testified, “...everybody comes in after working...for 30 years with their little black book.”

Conclusions and Recommendations

In the wake of the Commission's report, evidence of possible criminal violations was referred to multiple agencies, including the Office of the Attorney General, the Election Law Enforcement Commission, the Department of Community Affairs and the Department of Treasury.

The Commission also recommended that Carmen Pirre be removed as Tax Assessor and Planning Board member. Within weeks of the report's release, Pirre agreed to retire from both Borough posts.

Noting that political cronyism, nepotism and no-show political positions have no legitimate place in government, especially in an era of scarce public dollars, the Commission also called for a complete review of duties, responsibilities and salaries of local public employees by the Jamesburg Borough Council. Other recommendations included calls for open, competitive criteria for the hiring of police officers, procedures for the tracking use and accumulation of compensatory time and a policy to govern accumulated leave time by local public employees in Jamesburg, as well as in other locations.

The State of New Jersey's policy of limiting payment for accumulated sick leave to a lump-sum representing one-half of the employee's unused sick leave, calculated at the employee's current salary, up to \$15,000, may serve as a guide, along with policies limiting the accumulation of vacation and compensatory time. Such policies are important because Governmental Accounting Standards call for the measurement of accrued compensation time to be included in the liabilities of state and local governmental entities. Funds should be reserved annually based on anticipated (future) compensated absences for which employees will be paid. Otherwise, the fiscal burden on any public body could prove staggering.

During the course of its investigation, the Commission learned that the Department of Community Affairs is drafting legislation on this subject. The Commission urged that such legislation be reviewed and carried forward in light of the findings and recommendations of its report.

Local Government Corruption: *Point Pleasant School District*

Alerted by complaints from citizens within the community, the Commission late in 1992 launched an investigation into irregularities involving the Point Pleasant School District in Ocean County. The Commission focused primarily on questionable financial practices related to the operations of the Point Pleasant Community School and the terms of a separation-of-employment agreement between the school district and a former superintendent of schools. A report detailing the findings and recommendations of the Commission was issued in August 1994.

Major Findings

THE COMMUNITY SCHOOL

* Thousands of dollars in taxpayer funds were diverted by a key school district employee — Community School Director Vito Dellegrippo — between 1988-92. The scheme involved falsified expense reports and improper disbursements and was facilitated by sloppy record-keeping and by the inability or unwillingness of other top district officials to rectify the situation. The financial losses suffered by the Community School as a result of this activity forced the district to shift resources from other programs such as child care.

* Check-writing and spending authority for the Community School operations became largely concentrated in the hands of a single individual, Dellegrippo, who was required to justify his actions to no one. Moreover, the Board of Education and top administrators failed to apply basic oversight tools to monitor Dellegrippo's activities.

* Despite repeated warnings from the school district's outside auditors that the Community School's financial records were replete with irregularities, the Board of Education and school administration took no remedial action over a period of at least five years. Had the Board and administrators heeded the auditors' recommendations, which should have served as "red flags," much of the improper activity which the Commission detected at the Community School could have been avoided.

SEPARATION AGREEMENT/SUPERINTENDENT OF SCHOOLS

The Commission found that upon his retirement in 1987, Point Pleasant School District Superintendent Dr. Lawrence DeBellis was presented by the Board of Education with a compensation package worth more than \$260,000, the public school version of a corporate "golden parachute" — all at taxpayer expense. This was not a contract buy-out; it was a gift. Viewed in the context of an era when taxpayers and elected officials alike are scraping to account for every last dollar available to cover the cost of educating children, the terms of the DeBellis separation agreement are truly compelling.

The terms included “consulting fees” amounting to more than \$220,000, even though no consulting was performed; a \$15,000 annuity; a \$30,000 single premium whole life insurance policy; a health benefits package and accumulated sick and vacation time purchased in a fashion more generous than that afforded other employees of the school district; and an account, funded by the separation agreement, for DeBellis’ granddaughter’s college education.

The separation-of-employment pact also provided DeBellis with a special farewell perk: a Mississippi River steamboat trip valued at more than \$5,000.

Conclusions and Recommendations

While the specific circumstances in Point Pleasant may be unique to one community, the Commission nonetheless believes the situation there is symptomatic of a wider problem. Municipal governments and school districts across New Jersey are vulnerable to some of the same types of abuses — abuses that spring from lax governance and lack of vigilance. The Commission took the opportunity to reiterate a central admonition contained in earlier reports: Responsible elected and appointed officials hold a public trust, and have an obligation to the taxpayers of this state to watch local governments in action and to raise questions about matters that appear out of the ordinary.

Based upon evidence developed by the Commission that there may have been a misappropriation of Community School funds, the matter was referred for possible criminal prosecution to the Office

of the Attorney General. The Commission also recommended that the financial operations of the Community School be immediately transferred to the Office of the Business Administrator/Board Secretary, and that, in addition to taking control of the financial operations of the Community School, the Board set up its accounts and recordkeeping to reveal to the taxpayers of Point Pleasant the true costs of programs.

The Commission suggested that a state law be enacted to require that any school district that fails to implement a recommendation contained in its annual audit, or in a corrective action plan filed after the audit, publish a resolution in local newspapers stating the reasons for its failure to do so. In addition, each school board should be required to give an audit or finance committee the responsibility to answer questions and address problems raised by the independent auditor. These recommendations are consistent with those made by the Commission in its September 1992 report, Local Government Corruption, at page 85. To the Commission's knowledge, bills implementing such recommendations have not yet been introduced in the Legislature.

Moreover, it was also suggested that standards should be established by the State to provide local boards of education with uniform guidelines as to the appropriateness of expenditures when public funds are involved, and boards of education and municipalities should have in place a mechanism to track all accumulation and use of sick and vacation time. There should be no question as to the time entitlements of employees.

Local Government Corruption: *River Vale Recreation Department*

Responding to complaints from a number of residents of River Vale Township, Bergen County,

the Commission examined the Township's Recreation Department and the operation of some of its youth sports programs.

In a May 26, 1994 letter to Township Administrator Roy S. Blumenthal, the Commission reported that sloppy and inappropriate record-keeping and accounting practices had produced circumstances in which it was impossible to trace some \$1,300 in cash missing from the Recreation Department's accounts. The Commission was not able to determine how much of the cash collected during 1991 and 1992 was not deposited in proper accounts, nor was it able to identify services or goods which the cash could have purchased. It was suggested that the cash might have been used to pay umpire fees. However, umpires were on the Township payroll with taxes and withholdings deducted from paychecks, and the Commission found no documents referring to cash payments or supplements to umpires or anyone else. James V. Commerford, who served as part-time Township recreation director for 12 years prior to his resignation on January 31, 1994, either failed to make proper disposition of the money or negligently failed to arrange for its proper disposition, the Commission concluded.

To correct the systemic deficiencies which allowed this situation to get out of control, the Commission recommended establishment of a Township Board of Recreation Commissioners and the establishment of revolving fund accounts with receipts dedicated to specific recreational needs. Noting the lack of sufficient safeguards and controls over the receipt and transmittal of registration fees, the Commission also recommended an independent reconciliation of departmental receipts with source documents. Regarding purchasing functions, the Commission recommended that ordering, approval and verification of goods and services be segregated in order to deter misappropriation of assets.

Waste, Fraud and Abuse: *Marlboro Psychiatric Hospital*

Marlboro State Psychiatric Hospital was targeted for scrutiny in mid-1993 when Commission staff, visiting the institution in the course of an unrelated probe, noticed what appeared to be excessive stockpiling of chemicals and other materials at the Hospital's sewage treatment plant. Upon further investigation, the stockpile was found not only to be excessive but also to contain numerous substances purchased at taxpayer expense that were completely unnecessary for the safe and efficient operation of the treatment facility. Evidence of bribery and pay-offs involving Hospital personnel was subsequently uncovered in an examination of how and why the chemical purchases were consummated.

A 15-month probe ultimately uncovered a wide range of irregularities and questionable activities at Marlboro dating from the late 1980s to the present.

The results of the investigation, embodied in an October 1994 Commission report, revealed a tableau of waste, fraud, thievery and corruption in which the squandering of taxpayer dollars virtually had become business as usual at this institution. Some employees were found to have stolen with abandon. Vendors cheated and manipulated state service and supply contracts. Patient program funds were looted. Personnel rules, such as those governing sick leave, were abused.

¹Marlboro Psychiatric Hospital, one of seven state-run psychiatric institutions in New Jersey, serves an average of 780 adult patients per day with a staff of 1,157 employees and a total budget of \$55.5 million for Fiscal Year 1995.

The Commission found this pattern of abuse to be facilitated by pervasive lack of internal control and oversight. Senior Hospital officials were repeatedly found to have exhibited lax supervision and poor judgment, allowing multiple abuses to flourish either by directly participating in them or by simply turning a blind eye. A police force maintained by the state Department of Human Services (DHS) and ostensibly empowered to investigate alleged crimes at the Hospital was treated instead as little more than an unit of unarmed security guards.

The Key Findings

PURCHASING ABUSES

* Thousands of dollars worth of chemicals, cleansers and other substances were purchased in excessive amounts at taxpayer expense even though, in numerous instances, there was no use for them in such quantities in the operation of the Hospital. During one six-year period, the taxpayers footed the bill for nearly \$150,000 worth of chemicals that were later determined to have been completely unnecessary for the safe and efficient operation of the Hospital's sewage plant.

* A sales representative for one major supplier, State Chemical Co. of Cleveland, Ohio, offered cash and other inducements to Hospital personnel.

* When Hospital administrators became aware of these apparent bribe offers, no action was taken to suspend or even scrutinize the firm's contracts.

STATE CONTRACT MANIPULATION

* A State contract designed to provide the Hospital with sewage treatment chemicals was used illegally to the financial benefit of a politically-connected Monmouth County firm, Stacot Distributors, Inc.

* Stacot's owner, Frank Abate, is a former Marlboro councilman and a current member of the Western Monmouth Utilities Authority. The contract was steered to Stacot by the Hospital's chief maintenance officer, Richard Gann, with no oversight or review by top Hospital officials.

WIDESPREAD THEFT

* Between July 1989 and the spring of 1994, property valued at more than \$201,000 was reported stolen from Marlboro Psychiatric Hospital. The range and scope of the missing items, including property owned by patients as well as by the Hospital, is so extensive that it could be characterized as a laundry list for pillaging and included computers, copying machines, VCRs, tape recorders, furniture, cameras, books, art work and a wide variety of food.

* A notably high level of theft occurred in the Hospital's maintenance department, which for years had been run as a personal fiefdom accruing to the benefit of some members of a family of longstanding Hospital employees — the Gann family — who were held accountable to no one. As a result, the maintenance department had earned a reputation such that Hospital personnel commonly refer to it as “the Marlboro mart.” Scores of items large and small — from cases of work gloves and hand tools to electric drills to floor jacks, truck tires and a snowblower — have disappeared from the department's warehouse, garages and work areas in recent years. Inventory control practices were virtually nonexistent.

* In at least one case, lumber and a power tool from the maintenance yard were used by Hospital employees to construct a deck at the home of the Hospital's safety director.

* Despite police investigations into reported Hospital thefts, few resulted in actual arrests and prosecution. Police employed on the Hospital grounds by the State Department of Human Services complained that probes into allegations of employee involvement in thefts were closed “administratively” by police supervisors and Hospital officials on several occasions.

MISAPPROPRIATION OF PATIENT ACTIVITY FUNDS

* A program designed to assist patients in their transition from the Hospital to the surrounding community was transformed into a slush fund for the personal entertainment and enjoyment of Hospital employees.

* Commission investigators determined in many instances that as a result of a total lack of accountability, employees dipped into the fund, which totaled some \$1.4 million between 1989 and 1994, to purchase delivered food and restaurant meals for their own benefit. A review of Hospital records turned up numerous discrepancies in which purchase orders designated for patient recreation actually contained items of questionable value under the program, such as nail polish, garden hose and compact discs.

* Several supervisors of Hospital cottages where patients are housed expressed frustration over the difficulty of maintaining an inventory of the types of items purchased under this program. They alluded to a pervasive attitude that Hospital employees were entitled to satisfy personal needs, including the purchase of food and other items, at the expense of patients and taxpayers. This thievery had been facilitated throughout the years by a “code of silence” among fellow employees to overlook such pilfering.

EMPLOYEE ABUSE OF SICK LEAVE/INJURY POLICY (SLI)

* Lax managerial supervision of the sick leave/injury (SLI) policy, which allows state employees to go on leave up to one year with full pay for illness or injury purportedly suffered on the job, led to the expenditure of thousands of taxpayer dollars to cover questionable claims.

* In one case examined in detail by the Commission, a Hospital maintenance department/power plant employee, Russell Gann, filed repeated claims for injuries purportedly suffered while on the job. In

one instance, Gann was awarded more than \$14,000 and was out of work for nearly one year after claiming he suffered injuries to his ankle and arm in a fall in the Hospital's boiler room. Immediately prior to his report of this incident, Gann had engaged in a month-long freelance demolition job to remove some 40 tons of scrap steel from another facility, but no scrutiny by Hospital officials was given to his claim to determine if there was a link between the off-duty scrap-removal work and his injury. In another instance, Gann took a job plowing snow while collecting SLI pay for an alleged respiratory condition, the cause of which was never officially established.

Conclusions and Recommendations

The Commission concluded that the findings of its investigation of Marlboro State Psychiatric Hospital should serve as the impetus for substantive reform. The target of that reform, however, should not be limited to a single state hospital. Similar opportunities for the same types of waste, fraud and abuse exist within the entire range of New Jersey's publicly-funded institutions.

Evidence uncovered by the Commission of purchasing abuses, bribery, manipulation of state contracts, widespread theft and employee abuse of sick leave/injury (SLI) was referred to the Office of the Attorney General for criminal investigation. The improper activities of a relatively few employees had the effect of tarnishing the reputation and impugning the efforts of the numerous Marlboro employees who do their jobs well and who were rightfully outraged by the abuses revealed.

The Commission recommended immediate steps be taken to seek disciplinary action against Marlboro Psychiatric Hospital employees who have caused and perpetuated waste, fraud and abuse at that institution, either through overt actions or willful negligence. These personnel include Hospital Maintenance Supervisor Richard Gann, power plant engineer Russell Gann, Chief Engineer William Woolley, Director of Plant Services Albert Yodakis, Fiscal Officer Jeremiah Mahony and Safety Director Michael Corbett. This recommendation is being pursued by the Department of Human Services.

The Commission further recommended proceedings to determine whether State Chemical Co. should be debarred and disqualified as a vendor to the State of New Jersey as result of the actions of its sales representative in the securing of supply contracts with Marlboro Psychiatric Hospital. Debarment should also be considered as a penalty for Stacot Chemical Co. based upon the Commission's findings that this firm sold unnecessary chemicals to the Hospital and did so in apparent violation of State contract rules. At the same time, contracts in place at Marlboro and at other institutions should be examined closely to determine whether they are being used in compliance with rules established by the New Jersey State Division of Purchase and Property.

Finally, the Commission recommended immediate efforts to establish a viable system of internal fiscal, administrative, personnel and contract oversight controls within Marlboro Psychiatric Hospital. Even a rudimentary oversight structure would be an improvement at this institution. In the wake of the Commission's report, the Department of Human Services dispatched a special management team to Marlboro to scrutinize internal controls to ensure that taxpayer money is expended in the most effective and efficient way possible.

The Commission's findings in the matter of Marlboro's "Budgeted Program Supplies and Patient Activities Fund" suggested a program so riddled with abuse that its primary purpose — to provide patients with worthwhile, community-related activities — was thoroughly undermined. During the course of the investigation, the Hospital's Acting Chief Executive Officer announced that he was cutting use of this program at Marlboro by 50 percent, and introducing controls to prevent future abuses of the kind revealed by the Commission.

Injury and illness claims submitted by public employees, particularly at state institutions such as Marlboro Psychiatric Hospital and elsewhere in government, should be subjected to at least a minimum of scrutiny. Basic questions must be asked by management on a routine basis to verify the exact nature and cause of a given employee's illness or injury. Follow-up checks should also become a matter of routine to determine whether employees on paid leave from government are conducting their affairs within the rules governing SLI. Employees should be made aware of the appropriate use of sick/injury leave, particularly in reference to the illegality of taking other jobs while on taxpayer-financed leave.

Waste, Fraud and Abuse:

Nursing Home Certificates of Need

At the request of then-Assemblyman Harold L. Colburn, Jr., chairman of the Assembly Health and Human Services Committee, the Commission reviewed the state Department of Health's certificate of need program as it related to specific nursing homes. The Commission also examined the efficacy of the executive branch policy on blind trusts in insulating the program from the potential for abuse by

unscrupulous public officials having interests in nursing homes.

In a February 25, 1994 letter to Colburn, the Commission reported finding no systematic abuse or corruption in the certificate of need process, but raised questions about one episode involving a ranking official of Governor Florio's administration. Specifically, the Commission was told by former Commissioner of Health Frances Dunston that in November 1991 she rescinded the termination of the certificate of need of a Berkeley Township nursing home as a result of a telephone conversation with Brenda Bacon, then-chief of Management and Planning for the Florio administration. Although Bacon did not hold a direct financial interest in the facility, the Atlantic Shore Extended Care Center, she was a 10% partner with its corporate owner in another project. Bacon denied that she interfered in any manner in the process.

Despite the paucity of evidence establishing a pattern of abuse involving the certificate of need process, the Commission nonetheless concluded that this matter underscores the importance of government officials' maintaining the highest standards of personal integrity and avoiding even the appearance of impropriety or conflict of interest in the performance of their duties and responsibilities. One measure that serves to eliminate actual or potential conflicts by isolating public officials from investments that may influence their decisions is the establishment of blind trusts. Early in 1994, Governor Whitman issued Executive Order No. 2, setting forth actual requirements and criteria designed to make blind trusts more effective in preventing conflicts or the appearances of them.

In order to ensure the consistent application of blind trusts from administration to administration in New Jersey, the Commission recommended that the requirements of Governor Whitman's executive order be incorporated in the state's Conflicts of Interest Law. Codification would better apprise both the public and its representatives of the proper design of such trusts and who is required to establish them.