

The Commission shall make an annual report
to the Governor and Legislature . . .*

* *Excerpt from S.C.I. Law*

ELEVENTH ANNUAL REPORT

of the

STATE OF NEW JERSEY

COMMISSION OF INVESTIGATION

to the

GOVERNOR AND LEGISLATURE

**STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION**

COMMISSIONERS

Arthur S. Lane, *Chairman*
Henry S. Patterson, II

Lewis B. Kaden
John J. Francis, Jr.

EXECUTIVE DIRECTOR

Michael R. Siavage

DEPUTY DIRECTOR

David L. Rhoads

Executive Assistant

John O. Davies

Counsel to the Commission

Charles F. Blumenstein
Elitza M. Meyer

Robert E. Geisler
Peter M. Schirmer

Robert M. Tosti

28 West State Street
Trenton, New Jersey 08608
609-292-6767





**STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION**

28 West State Street
Trenton, N. J. 08608
Telephone (609) 292-6767

*TO: The Governor and the Members of the Senate and
the General Assembly of the State of New Jersey*

The New Jersey State Commission of Investigation
is pleased to submit for the year 1979 its eleventh
annual report and recommendations pursuant to Sec-
tion 10 of P. L. 1979, Chapter 234 (N.J.S.A. 52:9M-10),
the Act establishing the Commission of Investigation.

Respectfully submitted,

Arthur S. Lane, *Chairman*
John J. Francis, Jr.
Lewis B. Kaden
Henry S. Patterson, II

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52:9M-1. There is hereby created a State Commission of Investigation. The Commission shall consist of four members, to be known as commissioners. Two members of the Commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of 3 years and until the appointment and qualification of his successor. The Governor shall designate one of the members to serve as Chairman of the Commission.

The members of the Commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the Commission shall hold any other public office or public employment. Not more than two of the members shall belong to the same political party . . .*

** Excerpt from S.C.I. Law*

THE COMMISSION

- **Origin and Scope**
- **1979 Law Changes**
- **Brief Biographies**

ORIGIN AND SCOPE OF THE COMMISSION

Despite the range and impact of the Commission's achievements, inquiries continue to be made about its jurisdiction, the way it functions and its importance to a better New Jersey. The Commission believes this important information should be conveniently available. Accordingly, the pertinent facts are summarized below.

The New Jersey State Commission of Investigation (S.C.I.) was an outgrowth of extensive research and public hearings conducted in 1968 by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. That Committee was under direction from the Legislature to find ways to correct what was a serious and intensifying crime problem in New Jersey.

Indeed, by the late 1960s New Jersey had the unattractive image of being a corrupt haven for flourishing organized crime operations. William F. Hyland, who was Attorney General from 1974-1978 for the State of New Jersey, vividly recalled that unfortunate era in testimony before the Governor's Committee to Evaluate the S.C.I. He said in part:

"... our state quickly developed a national reputation as a governmental cesspool, a bedroom for hired killers and a dumping ground for their victims. Whether this was a deserved reputation was not necessarily material. The significant thing was that this became an accepted fact that seriously undermined confidence in state law enforcement."

The Joint Legislative Committee in its report issued in the Spring of 1968 found that a crisis in crime control did exist in New Jersey. The Committee attributed the expanding activities of organized crime to "failure to some considerable degree in the system itself, official corruption, or both" and offered a series of sweeping recommendations for improving various areas of the criminal justice system in the state.

The two highest priority recommendations were for a new State Criminal Justice unit in the executive branch of state government

and an independent State Commission of Investigation, patterned after the New York State Commission of Investigation, now in its 22d year of probing crime, official corruption and other governmental abuses.

The 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 manpower and authority to coordinate and press forward criminal investigations and prosecutions throughout the state. The Commission of Investigation was to be a relatively small but expert body which would conduct fact-finding investigations, bring the facts to the public's attention, and make recommendations to the Governor and the Legislature for improvements in laws and the operations of government.

The Joint Legislative Committee's recommendations prompted immediate supportive legislative and executive action. New Jersey now has a Criminal Justice Division in the State Department of Law and Public Safety and an independent State Commission of Investigation* which is structured as a commission of the Legislature. The new laws were designed to prevent any conflict between the functions of this purely investigative, fact-finding Commission and the prosecutorial authorities of the state. The latter have the responsibility of pressing indictments and other charges of violations of law and bringing the wrongdoers to punishment. The Commission has the responsibility of publicly exposing evil by fact-finding investigations and of recommending new laws and other remedies to protect the integrity of the political process.

The complementary role of the S.C.I. was emphasized anew by the Governor's Committee to Evaluate the S.C.I.**, which conducted in 1975 a comprehensive and impartial analysis of the Commission's record and function. The Committee's members consisted

* The bill creating the New Jersey State Commission of Investigation was introduced April 29, 1968, in the Senate. Legislative approval of that measure was completed September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969, and ending December 31, 1974. It is cited as Public Law, 1968, Chapter 266, N. J. S. A. 52:9M-1 et seq. The Legislature on November 12, 1973, completed enactment of a bill, cited as Public Law, 1973, Chapter 238, which renewed the Commission for another term ending December 31, 1979. A bill granting the S.C.I. an extension of its tenure for another five years until December 31, 1984, gained final approval by the Legislature and the Governor in December, 1979.

** The Governor's Committee to Evaluate the S.C.I. was created in April, 1975, by executive order of the Governor after the introduction in the Senate of a bill to terminate the S.C.I. touched off a backlash of public criticism. The measure was subsequently withdrawn.

of the late Chief Justice Joseph Weintraub of the New Jersey Supreme Court, former Associate Justice Nathan L. Jacobs of that same Court, and former Judge Edward F. Broderick of the New Jersey Superior Court.

That Committee in its October 6, 1975, public report rejected summarily any suggestion that the S.C.I. duplicates work of other agencies. Indeed, the Committee said the record demonstrated convincingly that the Commission performs a valuable function and that there is continuing need for the S.C.I.'s contributions to both the legislative process and the executive branch.

The Committee concluded that it saw no likelihood that the need for the S.C.I. will abate, and recommended amendment of the S.C.I.'s statute to make the Commission a permanent rather than a temporary agency. In support of this statement, the Committee declared:

"Our evaluation of the work of the S.C.I. convinces us that the agency has performed a very valuable function . . . The current public skepticism of government performance emphasizes the continuing need for a credible agency to delve into the problems that plague our institutions, an agency which can provide truthful information and sound recommendations. There must be constant public awareness if we are to retain a healthy and vibrant system of government. Indeed we see no likelihood that the need for the S.C.I. will abate . . ."

To insure the integrity and impartiality of the Commission, no more than two of the four Commissioners may be of the same political party. 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.

The paramount statutory responsibilities vested in the Commission are set forth in Section 2 of its statute.* This section provides:

2. The Commission shall have the duty and power to conduct investigations in connection with:

* The full text of the Commission's statute is included in the Appendices Section of this report.

- (a) The faithful execution and effective enforcement of the 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 statute provides further that the Commission shall conduct investigations by direction of the Governor and by concurrent resolution of the Legislature. The Commission also shall conduct investigations of the affairs of any state department or agency at the request of the head of a department or agency.

Thus, the enabling statute assigned to the Commission, as an investigative, fact-finding body,* a wide range of responsibilities. It is highly mobile, may compel testimony and production of other evidence by subpoena, and has authority to grant immunity to witnesses. Although the Commission does not have and cannot exercise any prosecutorial functions, the statute does provide for the Commission to refer information to prosecutorial authorities.

One of the Commission's prime responsibilities when it uncovers irregularities, improprieties, misconduct, or corruption, is to bring the facts to the attention of the public. The objective is to insure corrective action. The importance of public exposure was put most succinctly by a New York Times analysis of the nature of such a Commission:

Some people would put the whole business in the lap of a District Attorney (prosecutor), arguing that if he does not bring indictments, there is not much the people can do.

But this misses the primary purpose of the State Investigation Commission. It is not to probe outright criminal acts by those in public employment. That is the job of the regular investigation arms of the law.

* As a legislative, investigative agency, the S.C.I. is not unique, since investigative agencies of the legislative branch of government are as old as the Republic. The first full-fledged Congressional investigating committee was established in 1792 to "inquire into the causes of the failure of the last expedition of Major General St. Clair." (3 Annals of Congress 493—1792).

Instead, the Commission has been charged by the Legislature to check on, and to expose, lapses in the faithful and effective performance of duty by public employees.

Is sheer non-criminality to be the only standard of behavior to which a public official is to be held? Or does the public have a right to know of laxity, inefficiency, incompetence, waste and other failures in the work for which it pays?

The exact format for public action by the S.C.I. is subject in each instance to a formal determination by the Commission which takes into consideration factors of complexity of subject matter and of conciseness, accuracy and thoroughness in presentation of the facts. The Commission may proceed by way of a public hearing or a public report, or both.

In the course of its conduct, the Commission adheres to the New Jersey Code of Fair Procedure, the requirements for which were incorporated in the Commission's enabling law as amended and re-enacted in 1979. These provisions satisfy the protections which the Legislature by statute and the Judiciary by interpretation have provided for witnesses called at private and public hearings and for individuals mentioned in the Commission's public proceedings. Such procedural obligations include a requirement that any individual who feels adversely affected by the testimony or other evidence presented in a public action by the Commission shall be afforded an opportunity to make a statement under oath relevant to the testimony or other evidence complained of. The statements, subject to determination of relevancy, are incorporated in the records of the Commission's public proceedings. Before resolving to proceed to a public action, the Commission analyzes and evaluates investigative data in private in keeping with its solemn obligation to avoid unnecessary stigma and embarrassment to individuals but, at the same time, to fulfill its statutory obligation to keep the public informed with specifics necessary to give credibility to the S.C.I.'s findings and recommendations.

The Commission emphasizes that indictments which may result from referral of matters to other agencies are not the only test of the efficacy of its public actions. Even more important are the corrective legislative and regulatory actions spurred by arousing public and legislative interest. The Commission takes particular

pride in all such actions which have resulted in improved governmental operations and laws. It will continue to work for more effective protection of the taxpaying public from abuses in the expenditure of public funds and other subversions of the public trust.

S.C.I. LAW CHANGES

INTRODUCTION

The enabling statute under which the Commission was created in 1968 provided for an initial term of six years, extending to December 31, 1974. In November, 1973, the Commission was extended for a five-year term concluding on December 31, 1979. A bill, A-1275, granting the S.C.I. a new term to December 31, 1984, was signed into law by Governor Brendan T. Byrne in December, 1979. The following summary of the 1978-79 legislative proceedings is intended to heighten public comprehension of the S.C.I.'s functions, particularly regarding the Commission's liaison with the Executive and Legislative branches of state government.

SUMMARY

A-1275, a measure sponsored by Martin A. Herman, D-Gloucester, chairman of the Assembly Judiciary Committee, and co-sponsored by 12 Democrats and five Republicans, was largely based upon the recommendations of an October, 1975, report by the Governor's Committee to Evaluate the S.C.I. This bill was approved by the 80-seat Assembly by a vote of 71-1 on June 5, 1978. The legislation contained a number of revisions and additions to the S.C.I. law, including provisions to:

- Create a new criminal offense prohibiting a witness who has been granted immunity from wilfully refusing to answer questions or produce evidence pursuant to an order of the S.C.I. This would be in addition to the Commission's continued power to proceed against a recalcitrant witness for civil contempt.
- Impose a 5-year maximum period of incarceration for civil contempt for refusal by a witness, after a grant of immunity, to answer or produce evidence pursuant to an order of the S.C.I.
- Provide for a review of the activities of the S.C.I. every four years by a bi-partisan seven-member joint committee. The Senate later specified by amend-

ment that such reviews were to begin in 1982, by a review committee consisting of two members appointed by the President of the Senate, two by the Speaker of the Assembly, and three members to be appointed by the Governor.

- Authorize a single commissioner to conduct a private hearing if the investigation has previously been undertaken by a majority of the Commission. The Senate later added a requirement that the authorization of a single commissioner to conduct a hearing be by resolution of the Commission.

- Allow the S.C.I. to ask a governmental entity requesting an investigation to reconsider that request if the S.C.I. determines that it does not have the capacity to fulfill the request.

- Allow the commissioners to serve in a "holdover" capacity at the end of their terms if either they have not been reappointed or successors have not been appointed.

- Increase the annual salaries of the commissioners from \$15,000 to \$18,000, effective January 1, 1980.

- Expand the subject matter which the S.C.I. is authorized to investigate to include the Legislature's consideration of changes in or additions to existing laws.

The Senate's consideration of A-1275 began in early 1979. With representatives of the Commission and the Attorney General participating, the Senate Judiciary Committee discussed the bill at meetings in January and February and at a public hearing in February. By February 22, this committee's work on the Assembly-passed legislation was largely completed and a committee statement was issued. Additional changes in the measure included requirements that:

- All gubernatorial nominations to the S.C.I. be made with the advice and consent of the Senate.

- The terms of commissioners be reduced from 5 to 3 years.

- Any vacancy in the Commission be filled by the appropriate appointing authority 90 days after the occurrence of the vacancy, and that if at the end of 90 days the vacancy is not filled, the Chief Justice of the Supreme Court would fill the vacancy within the next 60 days. Further, should the appointing authority who failed to fill the vacancy be the Governor, the appointment by the Chief Justice would be subject to the advice and consent of the Senate.

- To clarify an ambiguity, a majority vote of commissioners means three votes if there is no vacancy on the Commission and two votes if there is a vacancy.

- To avoid a situation in which the terms of all the commissioners would expire at the same time, the terms of commissioners are to be staggered beginning with the first appointments made after December 1, 1978. To accomplish this "staggering" of terms and to be consistent with the new three-year term provision noted above, the bill provided the following schedule of appointments: The first member appointed by the Governor after December 1, 1978, would serve 36 months and the second gubernatorial appointee 18 months; the first member appointed by the President of the Senate would serve 30 months, and the first member appointed by the Speaker of the Assembly would serve 24 months. The Assembly had required staggering of terms by means of a drawing conducted by the Secretary of State.

- The S.C.I. within 5 days after the adoption of a resolution authorizing a public hearing, and not less than 7 days prior to that public hearing, notify the President of the Senate and the Speaker of the Assembly that the hearing has been scheduled. The President and Speaker then would refer such notice to the appropriate standing committee of each house.

- Require that any recommendations for administrative or legislative action resulting from a public hearing conducted by the S.C.I. be reported to the Governor and the Legislature within 60 days, rather than 45 days as had been specified by the Assembly, following the public hearing.

- Require the S.C.I. to give prior notice of a public hearing to the Attorney General and the appropriate county prosecutors within seven days, as against 24 hours in the Assembly version, to afford them an opportunity to offer any objections to such a hearing.

- Prior to making recommendations concerning any bill or resolution pending in the Legislature, the S.C.I. advise the sponsor of the legislation and the chairman of the committee to which that legislation has been referred about such recommendations.

- In order to insure that the rights of witnesses and others involved in S.C.I. investigations are protected, the provisions of the Code of Fair Procedure be incorporated within the statute governing the operation of the S.C.I. This was primarily a technical change since the Commission had been adhering to the Witness Fair Procedure law since its inception.

- The S.C.I. call to the attention of the Attorney General any information or evidence of a crime or misconduct as soon as practicable. The S.C.I. may delay the transmittal of information or evidence if it determines that special circumstances exist requiring such delay. However, if the Commission or an employee obtains information or evidence of criminal conduct that involves a reasonable possibility of an unauthorized disclosure of information or any violation of the statute governing the operation of the S.C.I., such information or evidence must be brought immediately to the attention of the Attorney General.

- Seven days prior notification, instead of 24 hours as the Assembly had required, be given to the Attorney General and county prosecutors before the S.C.I. may issue an order compelling testimony under immunity.

- The prohibition against unauthorized disclosure of information by persons conducting or participating in an S.C.I. investigation be expanded to include the following: Those situations where a person not conducting or participating in an investigation gains information with regard to the substance of the investi-

gation and discloses that information; those situations where a person induces a third party to make unauthorized disclosure of information relating to an S.C.I. investigation; and those situations where a person, other than a member or employee of the Commission or a person entitled to assert a legal privilege (i.e. lawyer, newspaperman), with knowledge of the substance of a pending investigation, fails to advise the Attorney General and the Commission of that knowledge and to deliver to the Attorney General and the Commission any evidence containing that information. Such unauthorized disclosure would be punishable as a crime of the third degree (presumptive sentence of 4 years imprisonment and/or a fine of up to \$7,500). This amendment also provides that any member or employee of the S.C.I. who violates the prohibition against unauthorized disclosure shall be dismissed from office or discharged from employment. However, these restrictions against disclosure of information by the S.C.I. are not applicable where disclosure of information is required by law or where disclosure is made to the Legislature or a legislative committee pursuant to a formal request or subpoena. These restrictions against unauthorized disclosure of information also are not applicable to members of the news media under the doctrine enunciated by the U.S. Supreme Court in its recent decision in *Landmark Communications v. Virginia*, 98 S.C. 1535 (1979).

The 40-seat Senate ratified its revision of A-1275 on May 21, 1979, by a vote of 31-0. The Assembly concurred with the Senate's amendments by a vote of 64-1 on June 18, 1979, amid reports that the measure faced a gubernatorial veto.

On November 19, 1979, at the conclusion of a legislative recess, Governor Byrne notified the Assembly, as the House in which A-1275 had originated, that he had conditionally vetoed the bill primarily because of its Senate advice and consent requirement. His veto message:

To the Assembly:

Pursuant to Article V, Section I, Paragraph 14 (b) of the Constitution, I herewith return Assembly Bill No. 1275 with my objections, for your reconsideration.

A-1275 extends the life of the State Commission of Investigation (S.C.I.) to December 31, 1984, and implements most of the recommendations of "The Governor's Committee to Evaluate the S.C.I." (The Weintraub Committee) with regard to that agency's operation.

As we all know, the S.C.I. was created by legislation adopted in 1968 as part of the anticrime legislative package recommended by the Joint Legislative Committee to Study Crime and the System for Criminal Justice in New Jersey (the Forsythe Committee). Since then, the S.C.I. has been involved in many extensive investigations which have greatly contributed to the fight against crime and corruption in our State. I am convinced, as was the Weintraub Committee, that the S.C.I. has performed a very valuable function and that it should be continued.

I also concur with the other provisions of A-1275 which implement the Weintraub Committee's recommendations, such as the provisions for the staggering of the terms of the Commissioners, the expansion of individual rights and the creating of a criminal offense for refusal to testify after having been granted immunity.

However, I object to the bill's provision that the Governor's appointees be subject to Senate confirmation. I point out initially that this was not recommended by the Weintraub Committee, nor by the Forsythe Committee report which, as indicated earlier, was responsible for the agency's creation. One familiar with the S.C.I.'s history knows that the agency was intended to be a creature of two of the three branches of government. Only as such, and with bi-partisan membership, could the S.C.I. be assured of the independence it needs to carry out its mandate.

I believe that Senate confirmation of the Governor's appointments to the S.C.I. would so undermine the basic philosophy of the agency as to bring its independence (and therefore its usefulness) into question.

With regard to Section 13 of A-1275, I believe that we should adopt the Weintraub Committee's recommendation that persons sentenced upon conviction for criminal contempt "... should not be eligible for parole consideration under statutes relating to parole unless it is shown that the defendant has furnished the testimony or evidence since the return of the indictment." (at page 25). Therefore, I recommend that the language in Section 13 be clarified to specify this intent.

The Assembly amended the A-1275 extender bill as requested by the Governor on the same day it received the veto message and then re-enacted the measure by a 70-1 vote on November 26. The Senate re-enacted the bill with the same changes on December 10 by a vote of 21-5 and the Governor signed the final legislative version of A-1275 into law on December 21, 1979.

MEMBERS OF THE COMMISSION

The Commission's activities have been under the leadership of Arthur S. Lane since February, 1979, when he was designated as Chairman by Governor Brendan T. Byrne after his appointment to a second term as Commissioner. The other Commissioners are John J. Francis, Jr., Lewis B. Kaden and Henry S. Patterson, II.

Mr. Lane, of Harbourside, was initially appointed to the Commission in May, 1977, by the Speaker of the General Assembly, a post then held by Senator William J. Hamilton of Middlesex. He was reappointed to the Commission by Senate President Joseph P. Merlino of Mercer in January, 1979. As Chairman, he succeeded Joseph H. Rodriguez of Cherry Hill, who had been Chairman since 1973. A former state and federal judge, Mr. Lane has been a member of the Princeton law firm of Smith, Stratton, Wise and Heher since his retirement in 1976 as vice president and general counsel for Johnson and Johnson of New Brunswick. A graduate of Princeton University, he was admitted to the New Jersey Bar in 1939 after gaining his law degree at Harvard Law School. He served in the Navy during World War II. He became assistant Mercer County prosecutor in 1947, Mercer County judge in 1956 and U.S. District Court judge in 1960 by appointment of the late President Eisenhower. Mr. Lane is chairman of the National Council on Crime and Delinquency. His term as S.C.I. Commissioner expires in June, 1982.

Mr. Francis, of South Orange, is a partner in the Newark law firm of Shanley and Fisher. From 1961 to 1963 he was an assistant U.S. attorney and from 1963 to 1965 he was an assistant Essex County prosecutor. A graduate of Williams College and the University of Pennsylvania Law School, he was admitted to the New Jersey State Bar in 1960. Mr. Francis, 44, is the son of former Associate Justice John J. Francis of the New Jersey Supreme Court. He was appointed to the Commission in February, 1979, by Christopher J. Jackman, Speaker of the General Assembly of New Jersey. His term expires in December, 1981.

Mr. Kaden, of Perth Amboy, was first appointed as a Commissioner in July, 1976, by Governor Byrne and reappointed by the Governor in December, 1978. A graduate of Harvard College and

Harvard Law School, he was the John Howard Scholar at Cambridge University, England. Until January, 1974, he was a partner in the law firm of Battle, Fowler, Stokes and Kheel in New York City. From 1974 to July, 1976, he was Chief Counsel to Governor Byrne. Mr. Kaden is Professor of Law at Columbia University and Director of Columbia University's Center for Law and Economic Studies. He is active as a labor arbitrator and mediator. Commissioner Kaden's term expires in December, 1982.

Mr. Patterson, of Princeton, is president and a director of the Elizabethtown Water Co., chairman of the board of the First National Bank of Princeton and a director of the Mount Holly Water Co. and of United Jersey Banks. He is president, director and executive committee member of the National Association of Water Companies, member of the American Water Works Association and past president of the New Jersey Utilities Association. He is a former mayor of Princeton Borough and past president of the Middlesex-Somerset-Mercer Regional Study Council. He was graduated from Princeton University and served during World War II in the U.S. Army. He received his discharge as a first lieutenant in 1946. He was appointed to the Commission in February, 1979 by Governor Byrne. His term expires in June, 1981.

52:9M-2. The Commission shall have the duty and power to conduct investigations in connection with:

. . . The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering . . .*

* *Excerpt from S.C.I. Law*

ORGANIZED CRIME PROGRAM

- 1979 Update
- Criminal Contempt Process

ORGANIZED CRIME PROGRAM

1979 UPDATE

Angelo Bruno

The S.C.I. continued through 1979 its law-mandated mission of confronting key organized crime figures. A primary target was Angelo Bruno Annaloro, head of the Philadelphia-based crime family whose influence extends through Central and South Jersey. Bruno, who had been questioned by the Commission in March, was requested in early October to appear for further interrogation about his underworld activities on October 17. In the interim, his counsel notified the Commission he had no knowledge of Bruno's whereabouts and was unable to contact him. Bruno subsequently was located and questioning resumed on October 31. However, that day's executive session proceeding was interrupted twice when the Commission was required to obtain back-to-back court orders compelling him to make responsive answers to questions. Bruno next appeared before the S.C.I. on December 6, 1979, and finally on March 20. Further litigation over the S.C.I.'s subpoena of Bruno was pending at the time he was shot to death in Philadelphia on March 21.

In all, Bruno had appeared 15 times for questioning by the S.C.I. since he was originally subpoenaed in August, 1970. Within two months of his first appearance, he was found in Superior Court to be in civil contempt and ordered to be incarcerated for refusing to answer questions about organized crime despite being granted immunity from prosecution. After several brief releases from prison for medical reasons, he obtained a court-ordered release for an indefinite period in June, 1973, for more extensive treatment. By the Spring of 1977, Superior Court ordered Bruno returned to jail, having ruled that his physical problems had ameliorated to the point that his freedom from custody was no longer warranted. On May 23, 1977, the day before he was to have been reincarcerated until he purged himself of contempt, his counsel represented to the court that he intended to respond to the S.C.I.'s questions and his return to jail was stayed. On June 16, 1977, Bruno began a series of appearances before the Commission, highlighted by his testi-

mony on August 8, 1977, as a witness at the S.C.I.'s public hearings on the incursion of organized crime into certain legitimate businesses on the periphery of legalized casino gambling in Atlantic City. Despite renewed litigation by Bruno's counsel in 1979, the Commission's subpoena was in full force and effect at the time of his death.

Simone Rizzo DeCavalcante

Another New Jersey crime figure, Simone Rizzo (Sam the Plumber) DeCavalcante, also was involved in litigation with the Commission during 1979. DeCavalcante sought unsuccessfully in trial court to quash an S.C.I. subpoena compelling his continued submission to interrogation and finally lost an appeal from that setback. Superior Court Appellate Division dismissed constitutional questions raised by DeCavalcante as "patently without merit" and, while directing that the Commission bring its interrogation of him to an early conclusion, observed that the subpoena served on him "is viable and he is required to comply with orders to appear at subsequent sessions as directed."

The Appellate Division's decision in the DeCavalcante matter declared in part:

*The facts underlying this appeal are basically undisputed. The Commission subpoenaed Mr. DeCavalcante on December 29, 1973, in order to compel his appearance and testimony on January 14, 1974. Pursuant to oral continuances of the subpoena, Mr. DeCavalcante has been ordered to appear before the Commission at least 17 times since then. For various reasons, including Mr. DeCavalcante's poor health, the unavailability of counsel and scheduling problems on the part of the Commission, Mr. DeCavalcante has appeared only 7 times.**

Mr. DeCavalcante contends his constitutional rights to travel, to exercise his right to freedom of movement and to settle in a place of his own choosing have been abridged by the Commission's use of its subpoena power. Assuming that such constitutional rights exist, there is no proof in the record before us of any viola-

* At oral argument it was represented that since the hearing in the trial court, Mr. DeCavalcante has appeared at least once more and possibly twice.

tion thereof. DeCavalcante lives in Florida and has traveled to New Jersey on many occasions. There is no suggestion of any impediment to his right to travel where and when he chooses. He is not on bail and his passport rights and privileges have not been abridged in any manner by the Commission. This contention is patently without merit.

The subject subpoena commanded Mr. DeCavalcante to appear and attend on the 17th day of January, 1974 and on any adjourned date thereof. Mr. DeCavalcante now contends that the subpoena is invalid in that it does not set forth a specified date and time in compliance with R.1:9-1 and that the time span over which the subpoena has remained in effect constitutes an abuse of the subpoena power.

* * *

The subpoena served upon Mr. DeCavalcante is viable and he is required to comply with orders to appear at subsequent sessions as directed. The issue is whether the continuances and required appearances over a six-year period constitutes an unreasonable or oppressive use of the Commission's subpoena power...

The record does not demonstrate harassment or oppression. The continuances over the years have been requested by the Commission, by DeCavalcante and by counsel. DeCavalcante's poor health has been a factor in the prolonged proceedings. We, therefore, affirm the order of the trial judge dismissing the order to show cause and denying the application to quash the subpoena.

Other Confrontations

The S.C.I. continued during 1979 its executive session scrutiny of ranking members of the DeCavalcante, Bruno and other crime families whose depredations centered in New Jersey. These individuals included John Riggi and Louis Larasso of Linden, Michael (Black Mike) LaFerrara of Linden, Antonio (Tony Bananas) Caponigro of Short Hills and Joseph Paterno of Miami, formerly of Paramus.

In April, 1979, a state Grand Jury indicted John (Johnny D) DiGilio of Paramus, among others, on loansharking charges. DiGilio, the subject of earlier S.C.I. scrutiny, was described as the heir to gaming operations in Hudson County of Joseph (Bayonne Joe) Zicarelli, also an S.C.I. target. Zicarelli, as previously noted, is on a continuing medical furlough from prison, where he had been incarcerated for civil contempt for refusing to answer questions put to him by the Commission.

Carl (Pappy) Ippolito, who reportedly fled New Jersey many years ago to avoid an S.C.I. subpoena requiring him to testify, was awaiting trial on a charge of criminal contempt for failing to appear before the S.C.I. in May, 1978. He was indicted on that charge by the State Grand Jury in 1979 after the Division of Criminal Justice obtained his extradition from Pennsylvania. He had been living in the Bucks County area in Pennsylvania, across the Delaware River from Trenton, his former residence.

In connection with its continuous confrontation of high-ranking members of organized crime, the Commission utilizes evidence it obtains to investigate the underworld's impact on economic and other facets of life in New Jersey. As a result, the Commission has been engaged in several investigations of organized crime incursions in this state that are approaching completion but presently remain confidential matters under S.C.I. law.

CRIMINAL CONTEMPT PROCESS

The enactment in late 1979 of an expanded statute governing the Commission's operations gave the agency an important additional weapon in its fact-finding confrontation of organized crime figures. This was the utilization of a criminal process against willful refusal by a witness, upon being granted immunity, to answer questions or produce evidence required by a subpoena. Such a procedure, which had been recommended in 1975 by the Governor's Committee to Evaluate the S.C.I., is in addition to the Commission's continuing civil contempt power to compel testimony from an immunized witness.

The Evaluation Committee, in addition to its overall endorsement of the Commission's efforts, sought to strengthen the S.C.I.'s organized crime inquiries in the wake of a decision by the New Jersey Supreme Court. This decision required the release from jail of Gerardo Catena on the grounds that his incarceration had

lost its coercive impact because prolonged confinement had demonstrated he would never testify. The decision subsequently led to the court-ordered release of Ralph (Blackie) Napoli and Louis (Bobby) Manna after these other high-ranking organized crime figures had been imprisoned for five or more years for civil contempt because they persisted in refusing to testify before the S.C.I. The Evaluation Committee stressed its concern that the Catena decision would dilute the S.C.I.'s work in an area "of concern to all citizens of the State."

On this point the Committee declared:

"Thus the civil process may be defeated by obstinacy, or may be seriously debilitated if vital witnesses choose to litigate the durability of their recalcitrance. The question whether coercion will succeed seems to be a matter of prophecy rather than of fact, and it being held that this matter of prophecy is a triable issue, the coercive effect of imprisonment may be diluted by a hope that some judge will "find" that coercion will not overcome the reluctant witness, if not today, then tomorrow, or the next.

"The Catena decision brings to the fore the question whether the criminal process should be invoked to deal with the public injury which ensues when a witness thus refuses to obey an order to testify. The very mission of the S.C.I. depends upon an ability to obtain the facts. It is intolerable that any man may choose to frustrate an inquiry by government upon a matter of concern to all the citizens of the State. The ensuing wrong exceeds the affront to the State when in litigation of limited moment a witness defies the State's authority. Here the public injury which inheres in every contempt is compounded by the fact that an agency of government is impeded or even finally blocked in a matter of overriding public concern.

"We believe a criminal process with appropriate sanctions should be available. The existing penalties for criminal contempt are manifestly inadequate in the light of the special public hurt involved. We believe it therefore necessary to provide that a willful refusal to obey a lawful order to testify or to adduce

evidence before the S.C.I. shall constitute a high misdemeanor, triable of course by jury upon indictment. The maximum punishment should be substantial so that the sentence may reflect the gravity of the particular offense."

The Commission's renewed enabling statute augments the agency's civil contempt power by also empowering the agency to pursue a criminal contempt course against a defiant witness. Such defiance under the revised S.C.I. law would be a crime of the second degree requiring a prison sentence of 7 years and a fine of \$100,000. If the Commission decides to seek a criminal penalty, its complaint must be referred to the Attorney General for prosecution, since the S.C.I. is a fact-finding rather than a prosecutorial body. The Commission's new criminal contempt power, of course, also assures established legal and constitutional protections for the target of such action. The Commission believes its enlarged scope will strengthen its confrontation of mob figures who attempt to thwart the Commission's civil process by constant legal and other delaying tactics.

52:9M-2. The Commission shall have the duty and power to conduct investigations in connection with:

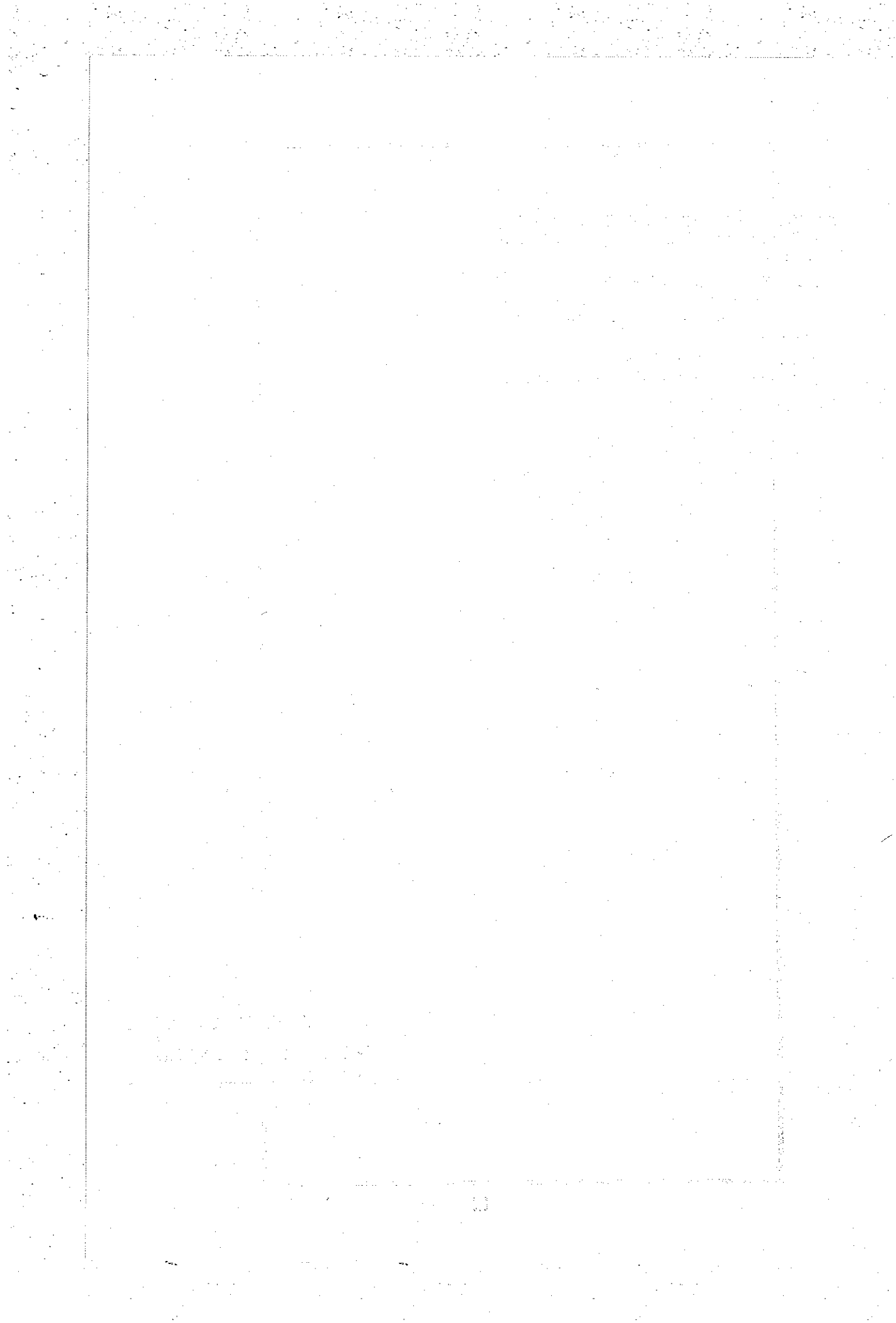
. . . The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;

. . . Any matter concerning the public peace, public safety and public justice . . .*

* Excerpt from S.C.I. Law

THE S.C.I.'s PUBLIC ACTIVITIES

- Introduction/1979 Update
- Legislative Liaison



THE COMMISSION'S PUBLIC ACTIVITIES

INTRODUCTION/1979 UPDATE

The Commission's public actions in 1979 included:

- A three-day public hearing in June on the mishandling of public insurance programs by certain county, municipal and other governmental entities.*
- An interim public report on incorrect injury leave practices which preceded the public insurance hearing. This report was issued while the public insurance investigation was in its final stages in an effort to proscribe misguided procedures that had already cost county and municipal employees at least \$1 million in incorrect social security and income tax deductions during the five-year period prior to 1979 from wages paid to these employees in accordance with governmental injury leave policies.**
- A public report to the Governor and the Legislature on deficiencies in the handling of sudden death investigations by law enforcement officials, including medical examiners.***

Interim Insurance Report

A detailed review of the Commission's public insurance probe and hearing was published separate from this annual report, including corrective recommendations the Commission hopes will be implemented by the Legislature. The interim report, a spinoff from this inquiry, was published early in 1979 in an effort to bring to an immediate halt wrongful tax deductions from injury leave wages paid to public employees and to expedite efforts to assist such

* See Pp. 33-35 of this 11th Annual Report.

** See N. J. State Commission of Investigation "Report and Recommendations on Incorrect Injury Leave Practices in the Counties," issued in January, 1979.

*** See N. J. State Commission of Investigation "Report and Recommendations on the Investigation of Sudden Deaths," issued in November, 1979.

employees recoup their losses before a three-year statute of limitations barred recovery for inappropriate deductions imposed during 1975.

The interim report, in summary, demonstrated that most counties with injury leave payment policies were incorrectly deducting social security and income taxes from wages paid to employees pursuant to these policies. In addition, it was found that these counties also were contributing such taxes as employers even though they were not required to do so. In connection with workers' compensation insurance, the Commission criticized unnecessary administrative costs that were automatically becoming a part of annual workers' compensation premiums in the counties. Another finding was that Burlington County and the Essex County Welfare Board were illegally allowing employees to receive and keep both workers' compensation *and* injury leave checks.

As a result of the interim report's recommendations, inappropriate tax deductions were largely halted, efforts were made at both the state and county levels to assist workers in recouping losses from such deductions, the illegal double-check practice was discontinued in Burlington and Essex and a legislative effort began to amend state law to eliminate needless administrative costs of workers' compensation programs in all counties.

Sudden Death Investigations

In its 175-page critique of sudden death investigations, the Commission's proposed reforms emphasized the need to replace New Jersey's present 21 county medical examiners by a more professionally qualified regional system utilizing forensic pathologists as regional medical examiners. The Commission's inquiry demonstrated that a professionally adequate medical examiner function was a key element of law enforcement performance in sudden death cases. The Commission also recognized the necessity for improving the effectiveness of county prosecutor staffs and municipal police, particularly to achieve a more coordinated investigative relationship with qualified medical examiners than now exists.

The Commission recommended that the State Medical Examiner be empowered to establish and direct a statewide regional medical examiner system of at least three multi-county offices, one of which would be operated in conjunction with the state office at the developing New Jersey Institute of Forensic Science in Newark. Each

regional office would be directed by a forensic pathologist with a trained fulltime staff and facilities adequate for the size and type of region established. The cost to the state of these regional offices would be offset annually by participating counties to the extent of their county medical examiner expenditures for the year 1979. In addition, the Commission recommended that county prosecutors establish with municipal police departments coordinating procedures that would include pre-qualification by a prosecutor of certain municipal departments as capable of conducting initial sudden death investigations. Such pre-qualified municipal police departments would assume control of death probes until developments required intervention by a prosecutor; in all other cases, county prosecutors would assume immediate control of death inquiries in liaison with the appropriate regional medical examiner. Stiffer performance requirements for municipal police were recommended, including completion of police training programs before undertaking police duties, special qualification standards for homicide, narcotics and other specialized investigations and continuous in-service training.

LEGISLATIVE LIAISON

*1. Incursion of Organized Crime Into Certain Legitimate Businesses in Atlantic City**

In January, 1979, Senator Steven P. Perskie, D-Atlantic, introduced two bills designed to impede attempts by organized crime to penetrate the cigarette vending and alcoholic beverage businesses. Such infiltration had been confirmed by an extensive investigation by the S.C.I. and by four days of public hearing testimony.**

The measures sponsored by Senator Perskie were:

- S-3008, to strengthen the statutory requirements for licensure of individuals and entities in the cigarette business by the State Division of Taxation, including stringent disqualification criteria to bar further incursion by organized crime elements.
- S-3010, to similarly strengthen the requirements for licensure in the liquor business by the Alcoholic Beverage Control Commission.

* See N. J. State Commission of Investigation Report, issued December, 1979.

** See N. J. State Commission of Investigation 9th Annual Report for 1977.

After considerable review and revision by the Senate Law, Public Safety and Defense Committee, S-3008 was approved by the Senate by a vote of 31-0 on May 7, 1979. The bill was further reviewed and amended by the Assembly Judiciary Committee and was approved by the Assembly without a dissenting vote on January 3, 1980. The Senate concurred in the Assembly's amendments and S-3008 was subsequently signed into law by the Governor. During the progress of this bill through the Legislature, S.C.I. officials attended numerous Senate and Assembly committee conferences on its structure and joined in several revisions to make it an effective and specific barrier against infiltration of the cigarette industry by members of organized crime.

Senator Perskie's S-3010, to strengthen liquor industry licensure requirements, was approved by the Senate along with its companion bill S-3008. However, certain provisions of S-3010 were questioned during the Assembly Judiciary Committee's review and the measure died with the 1978-79 legislative session. The S.C.I. has urged enactment of a bill similar to S-3010 during the 1980-81 legislative session.

*2. Abuses in the Boarding Home Industry**

After issuing a report and recommendations on serious irregularities in this industry in November, 1978, the Commission participated in a series of discussions on boarding home problems conducted by the Senate Institutions, Health and Welfare Committee. This committee's work resulted in the introduction in February, 1979, of S-3111, a bill entitled "The Rooming and Boarding Home Act of 1979." The primary sponsor of this legislation was Senator Anthony Scardino, Jr., the committee chairman. S-3111 gained approval of the Senate and Assembly later in 1979 and was eventually signed into law. Although the law excludes an S.C.I. proposal that regulatory responsibility for all facets of the industry except rate-making be centered in the Department of Human Services rather than remain fragmented among three departments, the measure had the endorsement of the Commission as a progressive step toward safeguarding the 40,000 mostly elderly and infirm individuals who are "trapped" in boarding house facilities.

* See N. J. State Commission Report on "Abuses and Irregularities in New Jersey's Boarding Home Industry," November, 1978.

*3. Violations of the Absentee Ballot Law**

Both during and after the Commission's investigation and public hearings into official abuse and misuse of the Absentee Ballot Law, constant communication was maintained with legislative and executive officials on the problem of statutory reforms. The task of closing election law loopholes to further improprieties was particularly difficult because of the necessity to make required changes that would not infringe on the constitutional privilege of all eligible voters to cast a secret ballot for candidates of their choice. A series of law amendments were drafted after discussions with legislators, with affected law enforcement entities and with Secretary of State Donald Lan. The Commission believes that the unity of purpose and effort by New Jersey's law enforcement community and the Legislature behind pending Absentee Ballot Law reforms will speed their enactment and guarantee their effective implementation.

* See N. J. State Commission of Investigation 10th Annual Report for 1973.

52:9M-3. At the direction of the Governor or by concurrent resolution of the Legislature the Commission shall conduct investigations and otherwise assist in connection with:

. . . The making of recommendations by the Governor to the Legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law;

. . . The Legislature's consideration of changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law . . . *

52:9M-4. At the direction or request of the Legislature, of the Governor or of the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, the Commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency . . . *

* Excerpts from S.C.J. Law

THE GOVERNOR'S REQUESTS

- HFA Investigation
- Truckers' Allegations

THE UNIVERSITY OF CHICAGO
LIBRARY
1100 EAST 58TH STREET
CHICAGO, ILL. 60637

THE GOVERNOR'S REQUESTS

NEW JERSEY HOUSING FINANCE AGENCY

Under its enabling statute the S.C.I. is required, at the direction of the Governor or of the Legislature, to conduct investigations in connection with possible changes in existing law to achieve more effective administration and enforcement. During 1979, the Commission undertook two separate investigations at the request of Governor Byrne.

On February 27, 1979, the Governor asked the S.C.I. to investigate the New Jersey Housing Finance Agency (H.F.A.). This request was made by letter to Arthur S. Lane, the Commission's chairman, as follows:

Recent allegations about the management practices of the New Jersey Housing Finance Agency have been called to my attention. The services performed by that Agency are of great importance to the people of our State and public confidence in its capability and integrity is essential. Accordingly, after consultation with the members of that Agency, I hereby request that the State Commission of Investigation undertake, pursuant to N.J.S.A. 52:9M-4, a formal, prompt and comprehensive investigation of the New Jersey Housing Finance Agency.

I have been advised by Treasurer Goldman that the Agency's high credit rating could be eroded by unanswered allegations of mismanagement. A thorough and dispositive investigation of the Agency's conduct would serve to comfort bond investors and, at the same time, facilitate future Agency financings.

Needless to say, the Board and the Agency will cooperate in every way possible with such an investigation. I look forward to your cooperation and your review.

The Commission immediately launched an extensive review of H.F.A. project files and of the activities of officers and staff with

respect to these files (except for two projects that had been under inquiry by Attorney General John J. Degnan and U.S. Attorney Robert J. DelTufo). The Commission has been cooperating with state and federal law enforcement agencies in their inquiries. In addition, the Commission has assessed the operations of agencies similar to New Jersey's H.F.A. in other states, including Pennsylvania, Connecticut, Massachusetts and Michigan. These assessments will provide comparative data for the S.C.I.'s forthcoming recommendations to improve the operation and assure the integrity of this state's H.F.A. The Commission may conduct public hearings highlighting the inadequacies of the H.F.A. and will submit a full report on its findings.

INDEPENDENT TRUCKERS' ALLEGATIONS

On July 5, 1979, Governor Byrne informed the Commission that he received allegations from independent truckers of questionable unloading practices at truck terminals. He directed the S.C.I. to investigate these allegations in this letter to Chairman Lane:

At a recent meeting held in my office with representatives of the Independent Truckers Association, allegations were made of certain questionable unloading fees being imposed on truckers at truck loading docks. Those allegations included references to requirements of a cash fee for unloading being requested by the gate guards in the dock areas; if payment was not made by the truckers, their trucks were placed on side lines and other trucks were routed in front of them for speedy unloading.

I believe that this is a matter warranting investigation by the State Commission of Investigation and, accordingly, pursuant to my authority under N.J.S.A. 52:9M-3, I ask and direct you to investigate this matter.

Attached is a list of the three representatives from the Independent Truckers Association who met with me. My Chief of Staff, Robert E. Mulcahy, III, was present at this meeting and can answer any specific questions you may have.

A report on the Commission's inquiry into the truckers' allegations cited by the Governor was in process as this annual report was printed.

52:9M-5. Upon request of the Attorney General, a county prosecutor or any other law enforcement official, the Commission shall cooperate with, advise and assist them in the performance of their official . . . duties.*

52:9M-6. The Commission shall cooperate with departments and officers of the United States Government in the investigation of violations of the Federal laws within this state.*

52:9M-7. The Commission shall examine into matters relating to law enforcement extending across the boundaries of the state into other states; and may consult and exchange information with officers and agencies of other states with respect to law enforcement problems of mutual concern . . .*

52:9M-8. Whenever the Commission or any employee obtains any information or evidence of a reasonable possibility of criminal wrongdoing . . . the information or evidence of such crime or misconduct shall be called to the attention of the Attorney General as soon as practicable, unless the Commission shall . . . determine that special circumstances exist which require the delay in transmittal of the information or evidence . . .*

* *Excerpts from S.C.I. Law*

LAW ENFORCEMENT LIAISON

- Attorney General
- County Prosecutors
- Reference of Evidence
- Interstate Cooperation
- National Organization of Investigatory Commissions

LAW ENFORCEMENT LIAISON

INTRODUCTION

The Commission continued during 1979 to respond to its statutory mandate to advise, assist and otherwise cooperate with other law enforcement agencies "in the performance of their official powers and duties."

The Commission last year recorded 101 requests for various types of assistance from county, state and federal law enforcement agencies in New Jersey and from such agencies in the states of California, Delaware, Nevada, Florida, New York and Maryland.

Complying with these requests, according to data recorded by Commission staff, required a total of 565 hours, or more than 23 working days. Scores of additional time-consuming contacts by and with the Commission were not included in the record because of the highly confidential nature of such discussions with various agencies and officials. This liaison effort was mutually beneficial and was reciprocated in a unstinting manner by the Attorney General's department, including the Divisions of Criminal Justice and State Police, and by all other law enforcement agencies involved in these contacts.

LIAISON WITH THE ATTORNEY GENERAL

As indicated, the Commission's liaison with Attorney General John J. Degnan and various components of his Department of Law and Public Safety was of a particularly constant nature. In fact, there were literally scores of occasions requiring communication by the Commission with the Attorney General or his staff and by his department with the Commission that, because of confidential restrictions, could not be included in the Commission's statistical records of law enforcement contacts maintained by S.C.I. special agents and agents/accountants in the performance of their day-to-day duties.

An example of the effectiveness of this type of law enforcement liaison was the Commission's investigation and public hearings in 1978 of the misuse of the Absentee Ballot Law.* This inquiry was

* See N. J. State Commission of Investigation 10th Annual Report for 1978.

launched as a cooperative effort with state and county prosecutorial officials, particularly with the Attorney General's Criminal Justice Division, after they finally determined that the law was so inadequate as to almost completely thwart every attempt to prosecute alleged violators of the absentee voting process. It was conceded at the outset of the Commission's probe that the Absentee Voting Law's contradictions, restrictions and ambiguities would continue to defy even the most vigorous enforcement. According to testimony by Criminal Justice Director Edwin H. Stier, "after a very careful analysis of the information that we had and the number of alternatives available to us," the Attorney General decided that "the most important vehicle for translating the information which we had found into action toward reform would be to assist the S.C.I. in its efforts and to bring about specific proposals in that way, and public awareness of the seriousness of the problem in the hope that the gaps in the law that we have been experiencing and laboring under will be closed."

A productive sharing of investigatory files and tasks marked the entire probe. Public hearings in late 1978 confirmed dramatically how local politicians coerced voters to advance their own personal and partisan ambitions, how absentee ballots were distributed, collected and cast illegally, and how forgery was employed to sign and alter ballots.

This same extensive law enforcement cooperation marked the discussions throughout 1979 of proposed Absentee Ballot Law revisions.

LIAISON WITH COUNTY PROSECUTORS

At the conclusion of its investigation of absentee ballot abuses, the Commission publicly acknowledged the cooperation of affected county prosecutors, as well as that of the Attorney General's office. The Commission takes pride in its increasingly close relationship with all of New Jersey's 21 county prosecutors and their staffs that began with active investigative associations some years ago in Atlantic, Burlington, Camden, Essex, Hudson, Passaic and Union counties. By 1979, this linkage between prosecutors and the S.C.I. had been extended to every county and is being constantly reaffirmed as prosecutorial changes occur in the various counties.

Particularly with regard to organized crime inquiries, the Commission realizes that the office of the county prosecutor is often

the most accurate and complete repository of information regarding organized criminal activity within each jurisdiction. Cooperative sharing of information and expertise has been an important factor in the Commission's various activities while aiding these local offices with particular regard to priority and approach. Communication and cooperation with the 21 county prosecutors and their staffs, additionally, have enhanced the Commission's understanding of the level of the statewide organized crime problem.

REFERENCE OF EVIDENCE

As required by its enabling statute, the Commission during the course of its various inquiries refers matters to other agencies for investigation and prosecution. Several such referrals occurred during 1979 which resulted in ongoing investigations. These cannot be commented on at this time. Subsequent to the Commission's investigation of the insurance procedures of public entities in the state, however, certain referrals to various governmental entities were made public by those entities. Those particular cases are discussed below.

1979 REFERRALS

North Bergen Township Clerk Joseph Mocco, Jr.

On August 10, pursuant to a resolution of the Commission, the S.C.I.'s Executive Director wrote to Mayor Anthony DiVincent of North Bergen concerning the dual role played by Township Clerk Mocco in obtaining municipal insurance coverage. That letter stated, in part:

"Having examined the record of the insurance investigation, the Commission has decided that there is cause for the removal of Mr. Mocco from his position of Township Clerk for misconduct and we refer the evidence of such misconduct since you are the public officer having the authority to act.

"The situation which came to light in the public hearing relates to Mr. Mocco's dual role as Township Clerk with the responsibility for insurance placement on the one hand and Insurance Broker receiving com-

missions for municipal insurances on the other. It was found that the coverage which was obtained by Mr. Mocco was so lacking in many respects, additionally, that the township was left uninsured for certain perils. With regard to the pertinent facts which should be reviewed by you, I have enclosed the entire public hearing record from the relevant portion of public hearings held on June 19, 20 and 21, 1979."

Just prior to the Commission's public hearing on North Bergen insurance irregularities, Clerk Mocco was suspended from office after an election in which the Mocco regime in that community was defeated. A hearing of charges against Mocco was instituted that did not conclude until December. Based on the recommendations of retired Superior Court Judge George B. Gelman, who presided over the Mocco hearing, Mayor DiVincent fired Mocco as township clerk on January 15, 1980. The S.C.I.'s investigative findings of conflicts and other improprieties in the handling of North Bergen insurance by Mocco were a highlight of the testimony recorded at the hearing.

Hudson County Purchasing Agent Warren Fuhro

On August 2nd, as authorized by a resolution of the Commission, the S.C.I.'s Deputy Director notified the County of Hudson that a portion of the public insurance hearing held by the Commission involved the fact that Mr. Fuhro had recommended to the Board of Freeholders that the T.C. Moffatt Agency be awarded a contract for county insurance coverage and that Mr. Fuhro's personal automobile liability premiums had been charged to Kearny Realty, Inc. It was pointed out by the Commission in its referral that Mr. Fuhro had contended under oath that he paid cash for his insurance coverage to the Moffatt Agency but his testimony was denied by G. Fred Hockenjos, a principal in the agency. This rebuttal by Mr. Hockenjos was verified by bookkeeping records of the Moffatt Agency.

According to Hudson County Counsel Francis T. Morley, the Fuhro matter was referred to the Attorney General's Criminal Justice Division by the County Prosecutor's office.

The Town of Kearny and Frank Arilotta

Pursuant to a resolution of the Commission, the S.C.I. staff communicated with David C. Rowlands, Mayor of Kearny, con-

cerning evidence recorded at public hearings pertaining to United Agencies, Inc., and its relationship with the Kearny insurance director, Frank Arilotta.

The Commission's communication noted that, in addition to unadvertised commissions of approximately \$20,000 annually, United Agencies received an additional \$80,000 "service fee" which was paid by the town. The Commission's hearing disclosed that Mr. Arilotta shared in a portion of these fees under an agreement with one of the salesmen for United Agencies, Inc. The Commission recommended that Mr. Arilotta's employment as the town's insurance director be rescinded immediately. The Commission also suggested that Mr. Arilotta's relationship with the town as an insurance broker also be rescinded.

Mr. Arilotta resigned as insurance director and early in 1980 Kearny replaced the United Agencies' contract with another insurance account devoid of any "service" fees.

INTERSTATE COOPERATION

The Commission is a member of various interstate organizations of a formal and informal nature which relate to its work and continues to cooperate through these organizations with representatives of other states on matters of mutual concern. Additionally, the Commission received in excess of one hundred requests for assistance on investigations from various law enforcement agencies throughout the nation. The Commission, in fulfillment of its statutory duty and its recognition of the importance of cooperation among the states in areas such as organized crime, fulfilled these requests quickly and efficiently. Additionally, the Commission itself has requested assistance from various other states on matters of mutual concern with particular relevance to organized crime and racketeering.

One particular project in which the Commission was involved was the investigation by the Pennsylvania Crime Commission of organized crime infiltration into the pizza industry in Pennsylvania. Because the supply lines of the industry in certain important respects commenced in New Jersey, the Commission's investigatory and accounting staff was utilized in cooperation with the Pennsylvania Commission to pinpoint that portion of the infiltration which was initiated in New Jersey. Additionally, because of prior work of the S.C.I. in its Atlantic City investigation in 1977 and its

familiarity with various facets of organized crime that are active in the retail markets of New Jersey and Pennsylvania, the New Jersey commission engaged in a cooperative exchange of information concerning these and other individuals with the Pennsylvania commission. In its final report on the pizza industry, the Pennsylvania Crime Commission publicly commended the New Jersey S.C.I. for its cooperation and assistance.

NATIONAL ORGANIZATION OF INVESTIGATORY COMMISSIONS

The S.C.I. continued its membership and activities in the National Organization of Investigatory Commissions (NOIC) during 1979. NOIC was created in Princeton in 1978 when the New Jersey S.C.I. called five other similar Commissions into conclave to consider the concept of a national group.

The Hawaii Commission on Crime joined NOIC in 1979. The Hawaii commission, created in 1978, has the primary purpose of inquiring into various aspects of organized crime in the state and keeping the public informed about the workings of organized crime.

Pursuant to NOIC's constitution, one of its principal functions is to promote the concept of investigatory commissions for other states. In line with views expressed by NOIC's president, Michael R. Siavage, executive director of the New Jersey S.C.I., NOIC during 1979 corresponded with the legislative and executive leaders of 43 states with regard to creating an S.C.I.-type state agency. Consideration of the concept is under way in several states and many other State officials have asked NOIC for information and further assistance in their studies of such actions.

52:9M-9. The Commission shall be authorized to appoint and employ and at pleasure remove an Executive Director, Counsel, Investigators, Accountants, and such other persons as it may deem necessary, without regard to Civil Service; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. Investigators and accountants appointed by the Commission shall be and have all the powers of peace officers.*

** Excerpt from S.C.I. Law*

COMMISSION STAFF

- **Performance,
Self-improvement**

COMMISSION STAFF

STAFF PERFORMANCE

The Commission's staff during 1979 consisted of 33 individuals, including five lawyers, five accountants and 14 special agents. As in previous years, the staff continued to expand its professional caliber by attending various law enforcement seminars and conferences and accredited educational courses related to their work.

In addition to enrolling for appropriate lectures sponsored by the Institute for Continuing Legal Education, S.C.I. lawyers accepted invitations to speak or conduct panel discussions at professional meetings and before citizen groups. One attorney, for example, participated in a televised town meeting program on crime, spoke at an organized crime conference in Atlantic City and made the welcoming address to a regional conference of law enforcement intelligence experts. Another lawyer participated in an organized crime institute at Cornell University in Ithaca, N.Y., and in organized crime panel discussions before the National Association of Attorneys General in Atlanta, Ga. Two other attorneys attended similar seminars in Chicago, one of whom also attended a National Prosecutors' Association program in Chicago on the use of computers in the investigation of economic crimes. All of the Commission's counsel have had trial or investigative experience in actions against organized crime. One came to the agency after serving as an assistant county prosecutor.

The Commission's accountants not only kept abreast of advances in their field but also shared their knowledge and experience with numerous other law enforcement agencies. The chief S.C.I. accountant, for example, addressed the State Police Training Academy in Sea Girt twice during the year on the subject of corporate financial investigations. He also reviewed specific problems in connection with such corporate inquiries before agents of the New Jersey Alcoholic Beverage Control Commission and has lectured on the role of accountants as expert witnesses and as "financial detectives" working with organized crime investigative teams. He and other staff accountants continued a longstanding practice of enrolling in various educational programs sponsored by the New York State

Society of Certified Public Accountants and other special accounting courses on topics related to their duties. Two of the S.C.I.'s accountants came from the U.S. Internal Revenue Service's investigative ranks.

Special courses and seminars on white collar crime, government corruption, organized crime and other law enforcement problems are also attended periodically by the Commission's special agents. In addition, the wide-ranging professional background of these agents has been particularly helpful in the successful completion of the Commission's unusually varied investigations. Collectively, this background includes previous careers or tours of duty with the U.S. Justice Department, the U.S. Senate's organized crime investigations, the Federal Bureau of Investigation, the State Police, various county prosecutor's offices, the Pennsylvania Crime Commission, many municipal police departments, the NY-NJ Waterfront Commission, a county sheriff's department, and the Military Police. One or another of the special agents periodically presides at regularly scheduled meetings of delegates from approximately 40 federal, state, county and municipal law enforcement agencies from a five-state area. These meetings are designed to develop closer investigative liaison and to review law enforcement matters of mutual concern.

In addition, all staff members with supervisory obligations have attended in-house training courses in managerial responsibilities and presently are completing a program in employer-employee communications.

52:9M-10. The Commission shall make an annual report to the Governor and Legislature which shall include its recommendations. The Commission shall make such further interim reports to the Governor and Legislature, or either thereof, as it shall deem advisable, or as shall be required by the Governor or by concurrent resolution of the Legislature.*

52:9M-11. By such means and to such extent as it shall deem appropriate, the Commission shall keep the public informed as to the operations of organized crime, problems of law enforcement . . . and other activities of the Commission.*

** Excerpts from S.C.I. Law*

LIAISON WITH THE PUBLIC

- Public Reports
- Citizen Assistance

LIAISON WITH THE PUBLIC

PUBLIC REPORTS

Since its inception the Commission has held a total of 21 public hearings on various law enforcement problems. These hearings were conducted in accordance with the Commission's statutory mandate to publicly demonstrate wrongdoing uncovered by fact-finding investigations. Each of these hearings was followed by a public report to the Governor and the Legislature summarizing investigative findings, reviewing hearing testimony and recommending legislative and regulatory reforms. Many of these recommendations were implemented, as detailed in a summary of major investigations in the Appendices Section of this annual report. In addition, the Commission since 1969 also issued 11 public reports on investigations which did not warrant a public hearing procedure.

A brief listing of these 32 public actions by the S.C.I. during the past decade illustrates the wide-ranging variety of allegations and complaints that, by formal authorization of the Commission, were subjected to the traditional process of probes, hearings and public disclosure. In the organized crime field, the Commission's continuing confrontation of high-ranking mob figures was highlighted by public hearings and reports on organized crime influence in Long Branch and Monmouth County (1970), organized crime activities in Ocean County (1972), narcotics trafficking (1973), and infiltration of legitimate businesses in Atlantic City (1977). In addition, investigations in other law enforcement areas that were subjected to both public hearings and reports included: State cleaning services' abuses (1970), state building service contractual irregularities (1970), Hudson County Mosquito Commission corruption (1970), Jersey City waterfront land frauds (1971), workers compensation misconduct (1973), misuse of surplus federal property (1973), pseudo-charity solicitations (1974), Lindenwold borough corruption (1974), medicaid-clinical labs (1975), Middlesex land deals (1976), prison furlough abuses (1976), medicaid nursing home schemes (1976), improper conduct by private schools for handicapped children (1978), absentee ballot law transgressions (1978) and mishandling of public insurance programs (1979). Further, although no public hearings ensued, critical public reports

and corrective recommendations followed the Commission's investigations of the garbage industry (1970), an Atlantic County embezzlement (1971), Stockton College land deals (1972), the Attorney General's office (1973), Middlesex bank fraud (1973), conflicts of interest on the Delaware River Port Authority (1974), medicaid nursing home cost reimbursements (1975), medicaid "mills" (1976), casino control law problems (1977), medicaid hospital problems (1977) and wrongful tax deductions from public employees' injury leave wages (1979).

As this annual report went to the printer, the Commission was in the process of bringing three investigations to the public hearing stage.

CITIZENS ASSISTANCE

As in past years, hardly a week passed in 1979 that the Commission did not receive requests for investigative action, assistance or advice from citizens of New Jersey. Commission records indicate more than 150 such citizen contacts, mostly for the purpose of filing complaints about law enforcement and other problems affecting them or their communities. The Commission staff's discussions and reviews of such citizen complaints required an average of more than a half-hour per contact.

APPENDICES SECTION

- **Resume, Results of
S. C. I. Investigations**
- **S. C. I. Statute**

APPENDIX I

RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS

This is a summary of the Commission's major investigations undertaken since June, 1969, when the S.C.I. became staffed and operational. In describing them as major investigations, it is meant that they required considerable time and effort and, where appropriate, resulted in a public hearing or a public report. Since these inquiries have been discussed fully in separate reports or in previous annual reports or in sections of this report, only a brief statement about each — including subsequent results — is set forth.

1. ORGANIZED CRIME CONFRONTATIONS*

Since the summer of 1969, the Commission has been issuing subpoenas for the appearance and testimony of individuals identified by law enforcement authorities as leaders or members of organized crime families operating in New Jersey. This program has been part of the Commission's continuous effort to increase the storehouse of intelligence, mutually shared with law enforcement agencies, about the status, modes and patterns of underworld operations in this state. However, the need to penetrate the so-called "Oath of Silence", behind which organized crime figures try to hide, has required the Commission to utilize every constitutional weapon at its disposal. One of these important anti-crime tools is the power to grant immunity, following procedures that are in strict accord with the protections laid down by law and the judiciary. The Commission believes that, once witnesses have been granted immunity against the use of their testimony or any leads derived from such testimony, a proper balance has been struck between protecting individual rights and the responsibility of the state to safeguard the public by learning as much as possible about

* See New Jersey State Commission of Investigation, Annual Reports for 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977 and 1978. See also Pp. 17-22 of this Annual Report.

the plans and strategies of the underworld. This philosophy and approach have been approved by the highest state and federal courts.

As part of this program of confrontation, nine organized crime figures who were served with subpoenas elected to undergo extended periods of court-ordered imprisonment for civil contempt for refusing to answer S.C.I. questions. In addition, certain organized crime figures remain under S.C.I. subpoena for either continuing or future testimony, including Simone Rizzo (Sam the Plumber) DeCavalcante, Carl (Pappy) Ippolito and Joseph Paterno. Among the many organized crime figures known to have fled New Jersey in an effort to avoid being served with S.C.I. subpoenas are Anthony (Tumac) Acceturo of Livingston, Emilio (The Count) Delio and Paterno of Newark, Joseph (Demus) Covello of Belleville, John (Johnny D) DiGilio of Paramus, Tino Fiumara of Wyckoff, John (Johnny Keyes) Simone of Lawrence Township, and Ippolito. The attempt by a number of these to seek alternate places of residence, primarily in South Florida, has been interrupted from time to time by federal and state indictments charging various criminal violations.

As indicated above, nine organized crime figures have chosen to spend prolonged periods of court-mandated incarceration on civil contempt grounds because they refused to testify before the S.C.I.

Of these nine, four gained release from jail only after agreeing to testify before the Commission. These four were Angelo Bruno, Nicodemo (Little Nicky) Scarfo, Anthony (Little Pussy) Russo (murdered in Long Branch in April, 1979) and Nicholas Russo. A fifth, Gerardo Catena, who had been imprisoned in March, 1970, was ordered released in 1975 by the New Jersey State Supreme Court, which ruled that imprisonment had lost its coercive effect because he had demonstrated a resolve never to testify. Similarly, two others, Ralph (Blackie) Napoli and Louis (Bobby) Manna, subsequently gained release after long periods of incarceration. An eighth, John (Johnny Coca Cola) Lardiere, who had been jailed since 1971 for refusing to testify before the S.C.I., was shot to death in 1977 while on a court-ordered Easter furlough. The ninth, Joseph (Bayonne Joe) Zicarelli, is on temporary medical furlough from jail.

New Jersey's former Attorney General Hyland, who was the agency's first chairman, has observed: "... much has already

been done to eliminate — or at least to weaken — organized crime. Much of the credit for that success belongs to the S.C.I. for its efforts in seeking testimony from alleged organized crime figures and for focusing the spotlight on, and thus alerting the public to, the problems associated with organized crime."

2. THE GARBAGE INDUSTRY*

The Legislature in 1969 passed a resolution requesting the Commission to investigate the garbage industry and make recommendations for possible corrective action at the state level. An investigation was subsequently undertaken by the S.C.I. of certain practices and procedures in that industry. The investigation ended with two weeks of private hearings, concluding in September, 1969.

A principal finding of the Commission was that some garbage industry trade associations discouraged competition, encouraged collusive bidding, and preserved allocations of customers on a territorial basis. Unless the vice of customer allocation was curbed by the state, the Commission concluded, many municipalities would continue to be faced with the problem of receiving only one bid for waste collection.

The Commission recommended legislative action leading to a statewide approach to regulating and policing of the garbage industry. Specific recommendations were: Prohibit customer territorial allocation, price fixing and collusive bidding; provide for licensing by the state (to the exclusion of municipal licenses) of all waste collectors in New Jersey, and prohibit discrimination in the use of privately owned waste disposal areas. State regulation of the industry eventually was enacted by the Legislature.

3. ORGANIZED CRIME IN MONMOUTH COUNTY**

The seashore city of Long Branch was in the late 1960s the target of charges and disclosures about the influence of organized crime. One charge was that an organized crime figure, Anthony (Little Pussy) Russo, controlled the mayor and the city council. Official reports indicated mob figures were operating in an atmo-

* See New Jersey State Commission of Investigation, A Report Relating to the Garbage Industry, October 7, 1969.

** See New Jersey State Commission of Investigation, 1970 Annual Report, issued February, 1971.

sphere relatively secure from law enforcement. The Commission began an investigation in May, 1969, that culminated with public hearings in early 1970. Among the disclosures were:

That a Long Branch city manager was ousted from his job by the city council after he began taking counter-action against organized crime's influence; that Russo offered to get the city manager's job back for that same person if he would close his eyes to underworld influences and act as a front for the mob; that impending police raids on gambling establishments were being leaked in time to prevent arrests despite the anti-gambling efforts of an honest police chief who died in 1968, and that the next police chief lacked the integrity and desire to investigate organized crime and stem its influence.

After the hearings, the irresponsible police chief resigned and the electorate voted in a new administration.

The Asbury Park Press commented editorially that the Commission's hearings did more good than four previous grand jury investigations. Also, the Commission's special agents developed detailed fiscal information and records relating to corporations formed by Russo, information which was used by federal authorities in obtaining a 1971 indictment of Russo on a charge of failure to file corporate income tax returns. He pleaded guilty to that charge and received a three-year prison sentence. Russo was murdered in 1979.

The Long Branch inquiry extended to the office of Monmouth County's then chief of county detectives. This probe determined that a disproportionate share of authority had been vested in this office. Twenty-four hours after the Commission issued subpoenas in October, 1969, the chief committed suicide.

Public hearings were held in late 1970. Testimony showed that a confidential expense account supposedly used for nine years by the chief of detectives to pay informants was not used for that purpose and could not be accounted for. The testimony also detailed how that fund was solely controlled by the chief with no county audit and no supervision by the county prosecutor. In fact, the county prosecutor testified that he signed vouchers in blank.

The Commission after the hearing made a series of recommendations to reform the county prosecutor system. A principal recommendation was for full-time prosecutors and assistants. A state law, since enacted, has established full-time prosecutorial staffs

in the more populous counties of New Jersey and additional statutes are requiring full-time prosecutors in certain other counties. Prior to the Commission's probe, there were no full-time county prosecutors in the state.

4. THE STATE DIVISION OF PURCHASE AND PROPERTY*

The Commission in February, 1970, began investigating charges of corrupt practices and procedures involving the State Division of Purchase and Property and suppliers of state services. Public hearings were held at which testimony showed payoffs to a state buyer to get cleaning contracts for state buildings, rigging of bids on state contracts, renewal of those contracts without bidding, unsatisfactory performance of work called for under state contracts, and illegal contracting of such work.

After the investigation, the state buyer was dismissed from his job. Records of the investigation were turned over to the State Attorney General's Office which obtained an indictment charging the buyer with misconduct in office. He pleaded guilty and was fined and placed on probation.

This investigation met with immediate correctional steps by the Division of Purchase and Property, which voluntarily changed procedures to prevent recurrence of similar incidents.

5. THE BUILDING SERVICES INDUSTRY**

The probe of the Division of Purchase and Property brought to the Commission's attention anti-competitive and other improper practices and influences in the building services industry. Public hearings were held in June, 1970.

Testimony showed the existence of a trade organization designed to thwart competition by limiting free bidding and enterprise. The hearings also revealed that a union official linked with organized crime figures was the real power in the trade organization, and that coerced sales of certain detergent cleaning products and imposition of sweetheart contracts were sometimes the price of labor

* See New Jersey State Commission of Investigation, 1970 Annual Report, issued February, 1971.

** See New Jersey Commission of Investigation, 1970 Annual Report, issued February, 1971.

peace. The inquiry also revealed that a major organized crime figure in New Jersey acted as an arbiter of disputes between some cleaning companies.

The Commission's investigation of restraint-of-trade and other abusive practices in the building service and maintenance industry aroused the interest of the United States Senate Commerce Committee. The committee invited the S.C.I. to testify at its 1972 public hearings on organized crime in interstate commerce. As a result of that testimony, the Anti-Trust Division of the United States Justice Department, with assistance from the S.C.I., launched an investigation into an association which allocated territories and customers to various member building service maintenance companies in New Jersey. In May, 1974, a Federal Grand Jury indicted 12 companies and 17 officials for conspiring to shut out competition in the industry. The companies were the same as those involved in the S.C.I.'s public hearings. Attorney Roger L. Currier of the Justice Department's anti-trust division in Philadelphia, in coordination with the U.S. Attorney's office in New Jersey, brought the entire case to a final conclusion on Oct. 25, 1977. On that date the defendants ended the government's civil action by agreeing to a consent judgment stipulating they would abandon the practices alleged against them. Earlier, the government's criminal suit against the defendants was completed in March, 1976, by which time one company had pleaded guilty to the charges, the other defendants pleaded no contest and fines totaling \$233,000 were levied.

6. THE HUDSON COUNTY MOSQUITO COMMISSION*

During 1970 the Commission received allegations of corrupt practices in the operation of the Hudson County Mosquito Extermination Commission. An investigation led to public hearings at the close of 1970.

The Mosquito Commission's treasurer, who was almost blind, testified how he signed checks and vouchers on direction from the agency's executive director. The testimony also revealed shake-down payments in connection with construction projects or rights-of-way in the Hudson meadowlands, the existence of a secret bank account, and kickback payments by contractors and suppliers under a fraudulent voucher scheme.

* See New Jersey Commission of Investigation, 1970 Annual Report, issued February, 1971.

One result of this investigation was abolition of the Mosquito Commission, an agency which served no valid function and whose annual budget was approaching the \$500,000 mark.

Also, after receiving S.C.I. records of the investigation, the Hudson County Prosecutor's Office obtained conspiracy and embezzlement indictments against the Mosquito Commission's executive director and his two sons. The executive director pleaded guilty to embezzlement and in June, 1972, was sentenced to two to four years in prison. His sons pleaded guilty to conspiracy and were fined \$1,000 each.

7. MISAPPROPRIATION OF FUNDS IN ATLANTIC COUNTY*

The Commission in 1970 investigated the misappropriation of \$130,196 that came to light with the suicide of a purchasing agent in Atlantic County's government. The Commission in December of that year issued a detailed public report which documented in sworn testimony a violation of public trust and a breakdown in the use of the powers of county government. The inquiry revealed how that purchasing agent fraudulently diverted money to his own use over a period of 13 years. The sworn testimony confirmed that for years prior to 1971, monthly appropriation sheets of many departments contained irregularities traceable to the purchasing agent but that no highly placed county official ever tried to get a full explanation of those irregularities. The testimony also disclosed that after county officials were first notified by the bank about the false check endorsement part of the agent's scheme, an inadequate investigation was conducted by some county officials.

Copies of the Commission's report were sent to Freeholder Boards throughout the state for use as a guide in preventing any further instances of similar misappropriation of funds. As a result of fiscal irregularities uncovered in its probes not only of Atlantic County but also of county agencies in Monmouth and Hudson counties, the Commission recommended that county and municipal auditors be mandated to exercise more responsibility for maintaining integrity, with stress on continuous reviews of the internal controls of county and local governments.

* See Report on Misappropriation of Public Funds, Atlantic County, a Report by the New Jersey State Commission of Investigation, December, 1971.

For a complete list of the 100 irregularities in Atlantic County, see the report on page 10 of the report.

8. DEVELOPMENT OF POINT BREEZE IN JERSEY CITY*

The lands that lie along the Jersey City waterfront are among the most valuable and economically important in the state. The Commission in the Spring of 1971 investigated allegations of corruption and other irregularities in the development of the Point Breeze area of Jersey City's waterfront as a containership port and an industrial park.

The investigation revealed a classic, informative example of how a proper and needed development could be frustrated by improper procedures. Public hearings in October, 1971, disclosed a payoff to public officials, improper receipt of real estate commissions, and irregular approaches to the use of state laws for blighted areas and granting tax abatement.

Two bills implementing S.C.I. recommendations from this probe were enacted into law. One improved the urban renewal process and the other tightened statutory provisions to prevent a purchaser of publicly owned lands from receiving any part of the brokerage fee attendant on such a purchase.

In addition, the Commission referred probe records to prosecutorial authorities. A Hudson County Grand Jury returned an indictment charging a former Jersey City building inspector with extorting \$1,200 from an official of the Port Jersey Corp. and obtaining money under false pretenses. The inspector was convicted of obtaining money under false pretenses and fined \$200 and given a six-month suspended sentence.

9. TACTICS AND STRATEGIES OF ORGANIZED CRIME**

Although not a "sworn" member of organized crime, Herbert Gross, a former Lakewood hotel operator and real estate man, became during 1965-70 a virtual part of the mob through involvement in numbers banks, shylock loan operations, cashing of stolen securities and other activities. In order to shorten a State Prison term in 1971, Gross began in that year to cooperate with government agencies, including the S.C.I.

Gross's testimony during two days of public hearings by the Commission in February, 1972, pinpointed the ruthless operations

* See New Jersey State Commission of Investigation, 1971 Annual Report, issued March, 1972.

** See New Jersey State Commission of Investigation, 1972 Annual Report, issued February, 1973.

of organized crime figures in the Ocean County area and their ties back to underworld bosses in Northern New Jersey and New York City. His testimony and that of other witnesses detailed how mobsters infiltrated a legitimate motel business in Lakewood. A former restaurant concessionaire at that motel testified that because of shylock loans arranged through an organized crime association, he lost assets of about \$60,000 in six months.

Records of this investigation were made available to federal authorities who subsequently obtained an extortion-conspiracy indictment against nine organized crime figures relative to a shylock loan dispute which culminated with an underworld "sitdown" or trial. New Jersey law enforcement officials testified at the S.C.I. hearings that the public exposure afforded by those sessions demonstrated the need for continually active vigilance against organized crime, particularly in rapidly developing areas.

10. PROPERTY PURCHASES IN ATLANTIC COUNTY*

The Commission during 1971 received information that the State may have overpaid for the site of the Stockton State College in Galloway Township, Atlantic County. Subsequent field investigations and private hearings extending into 1972 showed that payment of \$924 an acre for a key 595-acre tract was indeed excessive.

Substantially the same acreage had been sold only nine months earlier by two corporations headed by some Atlantic City businessmen to a New York City-based land purchasing group for \$475 per acre, which was about double the per acre price of two comparable large-tract sales in the Galloway area. The Commission in a public report in June, 1972, cited two critical flaws as leading to excessive overpayment for the land by the state: Inadequate and misleading appraisals of land that had recently changed hands at a premium price, and a lack of expertise and safeguards in State Division of Purchase and Property procedures to discover and correct the appraisal problems.

The report stressed a number of recommendations to insure that the Division would in the future detect and correct faults in appraisals. Key recommendations were post-appraisal reviews

* See Report and Recommendations on Property Purchase Practices of the Division of Purchase and Property, a Report by the New Jersey Commission of Investigation, issued June, 1972.

by qualified experts and strict pre-qualification of appraisers before being listed as eligible to work for the state. The recommendations were promptly implemented by the Division.

11. BANK FRAUD IN MIDDLESEX COUNTY*

Investigative activities during 1971 in Middlesex County directed the Commission's attention to Santo R. Santisi, then president of the Middlesex County Bank, which he founded. A full-scale probe by the Commission's special agents and special agents/accountants concentrated on Santisi-controlled corporations, in particular the Otnas Holding Company.

The probe uncovered schemes by Santisi and his entourage for the use of publicly invested funds in Otnas solely for their own personal gain, apparently illicit public sale of stock without the required state registration and misapplication by Santisi of hundreds of thousands of dollars of funds of the Middlesex County Bank. Those funds were "loaned" to members of the Santisi group who either personally or through their corporations acted as conduits to divert the money for the benefit of Santisi and some of his corporations.

During the first quarter of 1972 the Commission completed private hearings in this investigation but deferred planned public hearings at the request of bank examiners who expressed fears about the impact of adverse publicity on the bank's financial health. Instead, the S.C.I. referred data from this investigation to federal authorities who obtained indictments of Santisi and several of his cohorts on charges involving the misapplied bank funds. All pleaded guilty. Santisi was sentenced to three years in prison. One of his associates was sentenced to a year in prison and two others received suspended sentences.

12. THE OFFICE OF THE ATTORNEY GENERAL**

In the summer of 1972 the Commission was requested by the then Attorney General of New Jersey, George F. Kugler, Jr., to investigate his office's handling of the case of Paul J. Sherwin, the Secretary of State who was convicted on a conspiracy indict-

* See New Jersey Commission of Investigation, 1972 Annual Report, issued February, 1973.

** See Report on Investigation of the Office of the Attorney General of New Jersey, A Report by New Jersey State Commission of Investigation, issued January, 1973.

ment in connection with a campaign contribution made by a contractor who had bid on a state highway contract. The request triggered an investigation which extended into early 1973. The Commission took from 22 witnesses sworn testimony consisting of more than 1,300 pages of transcripts and also introduced exhibits consisting of more than 300 pages. The Commission, by unanimous resolution, issued in 1973 a 1,600-page report which was forwarded to the Governor and the Legislature and to all news media. John J. Francis, the retired Associate Justice of the New Jersey Supreme Court, served without compensation as Special Counsel to the Commission in the investigation.

A primary conclusion of the report which climaxed this inquiry — a report which made public all recorded testimony and exhibits — was that “we find no reliable evidence whatever to reasonably justify a conclusion that Attorney General Kugler was derelict in his law enforcement obligations.” The report also attacked certain types of political campaign contributions as a “malignant cancer in the blood stream of our political life” and urged the prohibition of such contributions to public officials by those aspiring for governmental contracts.

13. THE WORKERS' COMPENSATION SYSTEM*

New Jersey's system for compensating individuals for employment injuries became during the early 1970s the object of intense scrutiny. In addition to evidence and statistics indicating faults in the system, there were persistent published reports that irregularities, abuses and illegalities were being ignored or condoned. Mounting complaints led the State Commissioner of Labor and Industry to request an investigation. That task, which was undertaken by the S.C.I., was one of the agency's most comprehensive inquiries. The facts, as presented at nine days of public hearings in Trenton in May-June, 1973, documented abuses which included unwarranted compensation claims, lavish gift-giving and entertaining, questionable conduct by some judges, and the use by some law firms of favored heat-treating doctors or “house doctors” who inflated claims by bill-padding.

As a result of the investigation, three Judges of Compensation were given disciplinary suspensions, with one of them eventually

* See Final Report and Recommendations on the Investigation of the Workmen's Compensation System, a Report by the New Jersey State Commission of Investigation, January, 1974.

being dismissed from office by the Governor. After referral of data in this probe to prosecutorial authorities, an Essex County Grand Jury during 1975 indicted two partners of a law firm and the firm's business manager on charges of conspiracy and obtaining money under false pretenses in connection with the alleged heat-treatment, bill-padding scheme exposed at the S.C.I.'s public hearings. Also, the Waterfront Commission of New York Harbor used the investigative techniques and methodology established by the S.C.I. in this investigation to uncover widespread Workmen's Compensation frauds involving dock workers.

The Commission made more than a score of proposed law changes to the Legislature. One recommended measure, to stifle bill-padding and related malpractices, became law but a full-fledged effort to enact wide-ranging revisions did not actually begin until after the introduction of major proposed reform bills in 1978 by Senate President Joseph P. Merlino, Senators Anthony Scardino, Jr., and Eugene J. Bedell, and Assemblyman Joseph D. Patero.

14. MISUSE OF SCHOOL PROPERTY IN PASSAIC COUNTY*

A citizen's complaint received in January, 1973, prompted the Commission to inquire into the handling and distribution by the State of federal surplus property donated for use in schools and other institutions as well as questionable transactions at the Passaic County Vocational and Technical High School in Wayne. The investigation was capped by five days of public hearings at the Passaic County Courthouse in Paterson.

The hearings disclosed that the school's purchasing agent, who also was its business manager, failed to obtain competitive prices for many goods purchased, that substantial amounts of goods and services were purchased through middlemen, one of whom marked up prices by more than 100 per cent, and that regular payoffs were made to the school's purchasing agent. The evidence also confirmed that the purchasing agent used some school employees and property for improvements at his home and that the school had become a dumping ground for millions of dollars of federally donated surplus property under a mismanaged state program.

* See New Jersey State Commission of Investigation, Annual Report for 1973, issued in March, 1974.

This investigation led to S.C.I. recommendations for administrative corrective steps to establish an efficient program of state distribution of the surplus property and for improved procedures for school boards in overseeing purchasing practices. The State Board of Education relayed the S.C.I. recommendations to all school boards in the state with instructions to be guided by them.

Further, after referral of data from this probe to the State Criminal Justice Division, a State Grand Jury indicted Alex Smollock, the school's manager and purchasing agent, on charges of taking nearly \$40,000 in kickbacks. He was convicted of nine counts of accepting bribes and was sentenced to one to three years in state prison and fined \$9,000. Superior Court Appellate Division early in 1977 upheld Smollock's conviction. Later, in March, 1977, in a civil suit by Passaic County freeholders and the Technical-Vocational High School, Smollock was ordered by Superior Court to return salary he received during suspension from school duties as well as the bribe money. In February, 1978, he agreed under a Superior Court settlement to repay the county more than \$50,000 in 60 installments during a five-year period upon completion of his prison term.

15. THE DRUG TRAFFIC AND LAW ENFORCEMENT*

Narcotics and their relationship to law enforcement in New Jersey are a natural area of concern for the Commission, since the huge profits to be made from illicit narcotics trafficking are an obvious lure to criminal elements. As a result of an increase in the S.C.I.'s intelligence gathering during 1973 relative to narcotics, the Commission obtained considerable information concerning certain criminal elements in Northern New Jersey. A subsequent investigation produced a mass of detail about drug trafficking. At public hearings in late 1973, witnesses revealed their involvement in heroin and cocaine transactions in North New Jersey, marked by accounts of a killing and an attempt by crime figures to persuade a witness to commit murder. Federal, state and county authorities testified about the international, interstate and intrastate flow of heroin and cocaine and problems of law enforcement units responsible for the fight against illicit narcotics distribution.

* See New Jersey State Commission of Investigation, Annual Report for 1973, issued in March, 1974.

Due to a combination of a reliable informant and an extensive follow-up investigation by S.C.I. agents, this probe had significant collateral results. These included the solving of a gangland style slaying case and the busting of a stolen jewelry fencing ring and a crime federation burglary ring of more than 30 individuals. Both the Essex County (N. J.) Prosecutor and the Lackawanna County (Pa.) District Attorney complimented the S.C.I. for referrals of probe data and otherwise aiding law enforcement. The hearings also generated S.C.I. recommendations for an improved law enforcement attack on narcotics distribution and for revisions of the narcotics law, including sterner penalties for non-addict pushers.

16. PSEUDO-CHARITABLE FUND-RAISING APPEALS*

A growing number of companies were established in New Jersey to sell by telephone exorbitantly high-priced household products, principally light bulbs, in the name of allegedly handicapped workers. Although different in age, size and some operating procedures, all created an illusion of charitable works for the handicapped through telephonic sales presentations which stressed references to "handicaps" or "the handicapped." Consumers by the hundreds, outraged upon learning they had been duped into thinking these profit-oriented businesses were charities, registered complaints with the State Division of Consumer Affairs. That Division sought a full S.C.I. investigation of these pseudo-charities because of the broader purview of the Commission's statute, the Commission's investigative record and its public exposure powers.

Facts put into the public record at hearings held by the S.C.I. in June, 1974, included: That people were willing to pay high prices of as much as 1,100 per cent above cost only because telephone solicitors gave the illusion they were aiding a charity; that some companies used healthy solicitors who claimed they were handicapped to induce sales; that solicitors, handicapped or not, were subject to prompt dismissal if they did not produce enough sales to assure a profit for the owners; that an owner of one company received a total of more than \$1 million in four years from the business; that authentically handicapped solicitors could be harmed by having to constantly dwell on their ailments in order to induce sales, and that pseudo-charitable appeals drained off millions of

*See Final Report and Recommendations on the Investigation of Profit Oriented Companies Operating in a Pseudo-Charitable Manner, a Report by the New Jersey State Commission of Investigation, September, 1974.

dollars each year that otherwise could be tapped by authentic charities.

Access to data from this investigation was offered to federal officials both during the probe and immediately after the public hearings. Subsequently, the owner of one of the profit-making companies identified at the S.C.I.'s hearings and the sales manager of another company were charged with fraud by federal authorities. Both pleaded guilty.

A number of bills to implement S.C.I. recommendations in the charitable fund-raising field were introduced in the Legislature. In April, 1977, Governor Brendan T. Byrne signed into law a bill to require authorization by the Attorney General before corporations can identify themselves as fund raisers for the "handicapped" or the "blind." Another bill, to require professional fund raisers to provide financial reports to the Attorney General, also cleared the Legislature and was signed into law by the Governor on December 15, 1977.

17. THE DELAWARE RIVER PORT AUTHORITY*

The State Executive Commission on Ethical Standards during 1974 requested the S.C.I.'s assistance in investigating allegations of possible conflicts of interest of Ralph Cornell, then the Chairman of the Delaware River Port Authority. He had been a commissioner of that Authority since its inception in 1951. The reason for the request, as stated by the Ethics Commission, was that "the State Commission of Investigation is better equipped in terms of personnel, resources and operating procedures to conduct this inquiry."

The investigation involved the analysis of a virtual mountain of books and records of the Authority, corporations and banks in order to expose certain business relationships relative to subcontracting work done on Authority projects. After holding private hearings on 14 occasions from March through August of 1974, the Commission issued a comprehensive public report on this inquiry and sent it to the Governor and the Ethical Standards Commission, appropriately leaving to that Commission the final judgments on the full factual picture presented by the report. The Attorney General's Office also was given copies of the report.

* See Report on the Compatibility of the Interests of Mr. Ralph Cornell, Chairman of the Delaware River Port Authority, a Report by the New Jersey State Commission of Investigation, October, 1974.

The principal facts developed by the S.C.I.'s investigation were that Mr. Cornell's Cornell & Company had received substantial income for work performed on Port Authority projects on a sub-contracting and sub-subcontracting basis while other companies were listed in the Authority's records as the subcontractors with no listing of Cornell & Company in those documents; that he was the recipient of substantial dividend payments as a major stockholder in the insurance company which was the New Jersey broker for the insurance needs of the Authority, and that as an investor in lands subject to value enhancement by proximity to existing or proposed Authority projects, Mr. Cornell had received more than \$1.9 million in unadjusted profits. The report stated, however, that the probe found no evidence of Mr. Cornell making land purchases on the basis of "insider information" and that the purchases could have been made by any well informed citizen with substantial monetary resources.

In October, 1977, the Delaware River Port Authority agreed to accept a payment of \$50,666 by Mr. Cornell as a repayment of profits some of his firms made on Authority projects. The settlement represented a compromise of the Authority's claim that the profits amounted to \$64,330 and Mr. Cornell's claim that they were \$37,004. Port Authority counsel said the settlement was accepted to avoid "extensive expensive litigation." Cornell's counsel emphasized that the settlement was not to be regarded as an admission of liability. Mr. Cornell, who was absolved of any criminal wrongdoing by the state in 1975, was not reappointed to the Authority when his term expired in January, 1975.

18. THE GOVERNMENT OF LINDENWOLD*

A citizen's letter alleging abuses in the government of the Borough of Lindenwold, a rapidly developed suburban community in Camden County, was received by the Commission in the latter part of 1973. One of the letter's signatories, a former Borough Councilman in Lindenwold, in a subsequent interview with S.C.I. special agents, told not only of abuses concerning ethical standards but also of official corruption. He brought with him to the S.C.I.'s office \$5,000 he received, but never spent, as his share of payoffs made for votes favorable to land development projects.

* See New Jersey State Commission of Investigation, 1974 Annual Report, issued in March, 1975.

During 1974 the Commission obtained substantial corroboration of this man's story of amorality in the Borough's government in a lengthy probe involving full use of the Commission subpoena and witness immunity powers and its investigative and accounting background. At three days of public hearings in Trenton in December, 1974, the Commission heard testimony supported by numerous exhibits that \$198,500 had been paid by land developers to Lindenwold public officials in return for favorable treatment and cooperation of the Borough government, that a Borough official and a county official had accepted substantial amounts of cash from companies owning land subject to the officials' regulation, and that Lindenwold public officials used strawmen to mask their purchases of properties which were offered for sale by the Borough.

The public disclosure of what the Commission called "the democratic process of local government operating at its worst" sounded a warning to communities throughout New Jersey. The principal S.C.I. recommendation stemming from this hearing was for enactment of a tough conflict of interest law to apply uniformly on a statewide basis to all county and municipal officials. Legislation meeting the S.C.I.'s standards is pending in the Legislature.

The S.C.I. referred the Lindenwold probe records to the Criminal Justice Division which obtained State Grand Jury indictments in 1975. Former Mayor William J. McDade and real estate developer John Piper pleaded guilty to bribery and conspiracy charges on September 26, 1977, as their trial was scheduled to start. Former Councilman Arthur W. Scheid was found guilty on three counts and former Councilman Dominic Stranieri was found guilty on two counts after their trial concluded October 5, 1977.

19. LAND ACQUISITION BY MIDDLESEX COUNTY*

The Commission received a series of citizens' complaints during the Spring of 1975 about alleged overpayment by the Middlesex County government for purchase of certain lands for park purposes under the State's Green Acres program. A preliminary inquiry by the Commission indicated that overpayments had occurred and that faulty real estate appraisals and insufficient review of those appraisals by the County's Land Acquisition Department and by the State's Green Acres unit were at the root of the problem. Accordingly, the Commission authorized a full-scale investigation

* See New Jersey State Commission of Investigation, Annual Report for 1975.

of the County's land acquisition procedures and related Green Acres' program practices. Public hearings were held in Trenton in January, 1976.

This investigation, aided by two of the most respected post-appraisal reviewers in the State, determined that the County did overpay by some 100 per cent above fair market value for certain parcels of land in the Ambrose and Doty's brooks area of Piscataway Township. Both experts found that the appraisals made for each of the parcels overstated the value of the lands, largely because of failure to account adequately for physical deficiencies in terrain. The investigation determined that the Administrator of the County's Land Acquisition Department had approved the land purchase prices with virtual rubber stamp consent from the Board of Freeholders. The Administrator not only constantly solicited a stream of political contributions from the appraisers doing business with the County but also, according to the sworn testimony of two of those appraisers, solicited such payments from the two at a time when they were being awarded appraisal work for the County by the Administrator. Additional testimony at the hearings indicated serious deficiencies and confusion in the appraisal review function of the State Green Acres program, which supplies matching funds for county and local land purchases for park purposes.

As a result of the S.C.I.'s exposures in this investigation, the Administrator of the County's Land Acquisition Department was suspended from his post, and the County government moved to institute a more stringent process of checks and balances on land acquisition procedures. Even before the S.C.I. completed its 1976 hearings, arrangements were being formalized voluntarily by state officials, alerted by the Commission's findings, for the transfer of the Green Acres appraisal and post-appraisal review and control system from the Department of Environmental Protection to the Department of Transportation — one of many general and technical recommendations by the Commission that were implemented as a result of the inquiry. In addition, data from the S.C.I. investigation was referred to prosecutorial authorities.

The Middlesex Grand Jury investigated the conduct of the Middlesex County Land Acquisition Department and its former Administrator as a result of allegations raised during public hearings by the S.C.I. On September 27, 1976, the Grand Jury returned a presentment in which it said that while it found "no provable affirmative criminal act" by the Administrator, "it does feel that

his actions in that capacity indicated an insufficient expertise and lack of concern to perform his office in the best interests of the citizens of Middlesex County." The Grand Jury also noted that he solicited and collected political contributions from the same people with whom he dealt as departmental administrator.

The Grand Jury's presentment noted that "since the public hearings of the State Commission of Investigation in January, 1976 the Freeholders of Middlesex County have already taken substantial corrective actions." However, it urged in addition that the office of Land Acquisition Administrator be "completely disassociated" from solicitation and collection of political contributions and also that "all of the county officials who control the award of contracts be forbidden from soliciting contributions from individuals over whom they have the power to award contracts." The presentment also recommended that the post of departmental administrator be filled on a nonpartisan basis.

20. PRE-PAROLE RELEASE IN THE PRISONS*

The Commission during 1974 and 1975 received complaints alleging abuses of the pre-parole release programs of New Jersey's correctional system. The programs, aimed at the worthy goal of re-introducing inmates to society, included furloughs, work releases, education releases and community releases. Lengthy preliminary inquiries to evaluate the complaints indicated clearly to the Commission that the effectiveness and goals of the programs were being subverted by gross misconduct attributable to weaknesses in the operation and supervision of the programs.

Accordingly, the Commission by resolution in September, 1975, authorized a full investigation. The probe extended into 1976, with public hearings being held during May and June of 1976. Principal disclosures at the hearings included:

- Falsification of furlough and other types of applications to gain premature entry into the release programs.
- Establishment of favored status for some inmates and a resulting system of bartering for favors, including monetary exchanges among inmates.

* See New Jersey State Commission of Investigation Eighth Annual Report.

- The ease with which work, educational and other releases could be ripped off because of insufficient supervision in hands of the inmates themselves.
- The intrusion of a barter-for-favors system for the transfer of inmates from one to another of the various penal institutions.

As the Commission stated publicly, its probe and hearings were aided substantially by Ann Klein, the former Commissioner of Institutions and Agencies who is now Commissioner of Human Services, and by Robert J. Mulcahy, 3d, the former Deputy Commissioner of Institutions who, as the first Commissioner of a new State Department of Corrections, initiated major reforms of prison furlough procedures. These changes included elimination of inmate supervision of the furlough program and the provision of funds for non-inmate control of it, as the Commission had recommended. Mr. Mulcahy, who became Chief of Staff to Governor Byrne, later commented to a news reporter: "The S.C.I. investigation was a high-class, highly professional job. It was done in a positive fashion. The effect was really to help the department correct problems rather than simply expose them."

In addition to these reforms that followed the Commission's inquiry into furlough abuses in the prisons, a series of indictments and arrests resulted after the Commission referred its facts and public hearings transcripts to the Attorney General and other appropriate prosecuting authorities.

The Attorney General announced in January, 1977, the indictment by the State Grand Jury of five former inmates of Leesburg State Prison on charges of escape in connection with alleged fraudulent obtaining of furloughs from the prison. The then Criminal Justice Division Director Robert J. Del Tufo said the indictments charged the five defendants "bought" furloughs from fellow inmates who had been utilized as clerks by the prison system to process forms, records and other paper work that enabled inmates to qualify for furloughs.

The State Grand Jury also indicted a since-dismissed clerk of Trenton State Prison for false swearing and perjury as a result of her testimony on prison furlough abuses during the Commission's private and public hearings. A glaring abuse involving the ex-clerk was the utilization of a bogus court opinion to obtain a substantial reduction in the prison sentence—and therefore the

premature release—of one inmate, Patrick Pizuto, known to law enforcement authorities as an underling of the late Anthony (Little Pussy) Russo, a seashore mob figure. This disclosure at the S.C.I.'s hearing led to the immediate reincarceration of Pizuto, who was subsequently indicted for murder and on federal bank fraud charges. On December 8, 1977, Superior Court Appellate Division dismissed as moot Pizuto's appeal from his reincarceration. Pizuto subsequently became an informant for law enforcement authorities investigating underworld crimes and is in the federal witness protection program.

21. THE NEW JERSEY MEDICAID PROGRAM*

In December of 1974 Governor Brendan T. Byrne requested the State Commission of Investigation to conduct an evaluation of New Jersey's system of Medicaid reimbursement. Also, at that time, the New Jersey Attorney General's office announced that it was probing the alleged interests of Dr. Bernard Bergman in New Jersey nursing homes. Later, that office set up a special section of its Enforcement Bureau to deal specifically with criminal activities and fraud in the area of reimbursement to nursing homes and other providers, a unit which has obtained many indictments. In January, 1975, the Governor announced the formation of a cabinet-level committee to study the problems of Medicaid reimbursement for nursing home care. That committee issued its report on November 13, 1975, and certain recommendations relating to property costs reimbursement reiterated suggestions initially made in 1975 in the S.C.I.'s first report on nursing home reimbursement. The New Jersey Legislature also created a committee to examine nursing homes in January of 1975. That committee, chaired by then Senator John Fay of Middlesex County, examined the quality of care in New Jersey nursing homes receiving Medicaid reimbursement and other aspects of the program.

The extent to which this \$400 million-a-year program of health care for the poor was under simultaneous investigation by the Commission and various other agencies indicated both the complexities of the various functions involved and the degree to which they were misused and abused at great public cost.

During the course of its probe, the Commission reported to the Governor on an update basis from time to time—an operational

* See New Jersey State Commission of Investigation 1975, 1976 and 1977 Annual Reports.

pattern based on the premise, later substantiated, that the social and financial cost of apparent widespread exploitation of the huge health care delivery system would warrant urgent interim statutory and regulatory correction. A chronological charting of the entire investigation shows the Commission took the following public steps:

- **NURSING HOMES**—An initial public report by the S.C.I. on April 3, 1975, exposed serious flaws in the rental and related phases of New Jersey's method of property cost reimbursements of Medicaid-participating nursing homes, one critical conclusion of which was that inflated reimbursement schedules allowed unconscionably inflated profits to greedy entrepreneurs at heavy cost to taxpayers.

- **CLINICAL LABORATORIES**—A formal public S.C.I. pronouncement on April 23, 1975, detailed dangerously poor conditions and procedures in certain independent clinical laboratories and recommended swift legislative enactment of a pending remedial measure. Subsequently the Legislature approved and the Governor signed the highly effective Clinical Laboratories Act.

- **CLINICAL LABORATORIES***—The Commission conducted in June, 1975, a series of public hearings that effectively exposed how Medicaid was being bilked by some independent clinical laboratories through false billing and kickbacks practices, among other evils. The S.C.I.'s probe and recommendations in this vital area also were followed by major reforms. The Medicaid manual regulating independent clinical laboratories was drastically revised to bar abusive activities and the maximum fee schedule for reimbursing laboratories was reduced by 40 percent. Taxpayer savings from these improvements alone were estimated at \$1.4 million for the fiscal year ending June 30, 1976.

- **NURSING HOMES****—The final S.C.I. dissection of nursing home property cost reimbursement under Medicaid provisions emphasized so-called "money tree" plucking by unscrupulous operators through facility selling-financing-leasing-back schemes that excessively ballooned the value of the facilities. A two-day public hearing in October, 1976, corroborated the gross abuses revealed in the S.C.I.'s inquiries into the nursing home property cost reimbursement system phase of its Medicaid inquiry.

* See New Jersey State Commission of Investigation, Annual Report for 1975.

** See New Jersey State Commission of Investigation, Annual Report for 1976.

• "MEDICAID MILLS"*—How some doctors, dentists and pharmacists corrupted the system was dramatized by the Commission's exposé of over-billing and over-utilization practices that bared a loophole potential for far wider abuse of the Medicaid system.

• MEDICAID HOSPITALS**—Utilizing its staff of accountant-agents, an S.C.I. team made an in-depth assessment of the emerging rate-regulating and Medicaid reimbursement process affecting hospitals with substantial Medicaid in-patient care. This was done to determine the adequacy, if any, of fiscal controls by supervisory public agencies to insure the system's efficiency, economy and integrity. Such an unusually complex analysis of methods of controlling hospital costs was vital because of the huge impact of such costs on the Medicaid program.

A number of statutory and regulatory steps were taken in response to the revelations of abuses and exploitation of the Medicaid system following—and even during—the Commission's investigations, interim reports and public hearings. These actions included the Legislature's enactment of a New Jersey Clinical Laboratory Improvement Act, as well as a law increasing maximum penalties for bilking the Medicaid program through overbilling and false billing.

Many of the Commission's recommendations were expeditiously adopted by the Division of Medical Assistance and Health Services as a result of the S.C.I.'s clinical laboratory hearings.

The inflated fee schedule — which facilitated the making of financial inducement type payments from some laboratories to their physician customers — was reduced 40 per cent. Language in the program laboratory manual was tightened to clearly proscribe the practice by which small laboratories subcontracted particular tests to large reference facilities and then, in many instances, marked-up the cost by more than 300 per cent and reaped windfall profits at the taxpayer's expense. The manual now explicitly prohibits the breakdown of automated component-part tests into separate procedures and the submission of bills to Medicaid for each to the end that a lab might receive between \$60 and \$80 for a profile which costs less than \$3.50 to perform. A computer system for analyzing and screening group tests was developed. The Division took steps to insure that laboratories fully identify the pro-

* See New Jersey State Commission of Investigation Annual Report for 1976.

** See Report of New Jersey State Commission of Investigation on Hospital Phase of The Medicaid Program, April, 1977.

cedures performed and for which payment is requested. In this regard, a requirement was imposed upon Prudential (the fiscal intermediary) that all claims be itemized in detail. Aggregate billing — which was effectively used by some labs to mask improper requests for reimbursement — is no longer tolerated. The Division adopted a hard line with respect to the flow of inducement type payments in any form whatever between laboratories and physician customers.

The Division cured a glaring weakness by employing more staff expertise in clinical laboratory processes and procedures. The Commission recommended that a panel be formed to draft an equitable competitive bid system for laboratory work based upon awards of a regional nature. In furtherance of this recommendation, the Commission testified against impractical restrictions of federal law before several Congressional bodies.

At the conclusion of the second phase of the Commission's probe of gross profiteering in Medicaid nursing home facilities in October, 1976, the Commission urged that Senate Bill 594, requiring full public disclosure of those who have financial or other business interest in nursing homes, be substantially strengthened to eliminate practices that siphoned health care dollars from patients to speculators. This bill, which had passed in the Senate on April 12, 1976, subsequently was amended on the Assembly floor in accordance with the S.C.I.'s recommendations, according to a spokesman for the Legislature's Joint Nursing Home Study Commission which drafted the original legislation. The revised measure then cleared both the Assembly and the Senate in February and April, 1977, and was signed into law by Governor Byrne on September 29, 1977.

Additionally, subsequent to the issuance of its Final Report on Nursing Homes, the Commission persisted in its efforts to have New Jersey's system of property cost reimbursement to Medicaid nursing homes restructured along the lines suggested by the Commission in that report. Commission representatives met on several occasions with high-ranking officials of the appropriate administrative agencies. Those agencies have accepted the Commission recommendation, which will show a savings of as much as \$6 million per year, according to the Director of the Division of Medical Resistance and Health Services.

Certain unusually alarming aspects of the Commission's complicated Medicaid inquiry, such as the clinical laboratory abuses

and the evils of the "medicaid mills," helped to spur corrective efforts. In fact, the clinical laboratory phase was a pioneering probe that revealed for the first time the hard facts about unscrupulous ripoffs of the system. These disclosures resulted in the appearance of Commission officials before the U.S. Senate Committee on Aging and the U.S. House of Representatives Subcommittee on Oversight and Investigation. U.S. Senator Harrison A. Williams of New Jersey, reporting his "dismay" over the "widespread fraud and abuse among clinical laboratories," told the Senate in remarks entered into the Congressional Record:

"With respect to the latter, I am pleased to note that the Aging Committee gives great credit to the New Jersey Commission of Investigation and to our New Jersey Department of Institutions and Agencies (now Department of Human Services). The Legislature and the Department responded with prompt implementation of corrective measures."

22. ORGANIZED CRIME AND CASINO GAMBLING IN ATLANTIC CITY*

After New Jersey voters authorized legalization of casino gambling in Atlantic City on Nov. 2, 1976, and at the request of Governor Brendan T. Byrne, the Commission directed an extensive surveillance of organized crime activities in that shore resort region for the purpose of taking "public action in order to make constructive recommendations to the Governor, the Legislature, and the people for the effective control and policing of casino gambling." As a part of this investigative effort, the Commission issued on April 13, 1977, a 167-page report to the Governor and the Legislature highlighting 57 detailed recommendations for an effective control law that would "thwart the infiltration of casinos and related services and suppliers by organized crime." Upon passage of the Casino Gambling Control Act, the Commission characterized it as an acceptable statutory base upon which to build even stronger controls in the future.

By the Summer of 1977, the Commission's monitoring of organized crime activities linked to the development of the new gaming industry in Atlantic City had uncovered enough evidence

* See New Jersey State Commission of Investigation Report on Casino Gambling, April 13, 1977; also Ninth (1977) Annual Report; also the Commission's Report on the Incursion of Organized Crime into Certain Legitimate Businesses in Atlantic City, January 12, 1978.

of an actual intrusion of legitimate business to warrant public hearings in keeping with the S.C.I.'s statutory mandate to alert and inform the citizenry. The Commission's inquiry had revealed, as was later confirmed publicly, that organized crime—in addition to its historic interest in casinos and allied services—was also, already, penetrating certain other legitimate businesses that had not been a target of legislative restraints and over which regulatory controls, where they existed at all, were inadequate and only casually enforced.

The Commission conducted four days of public hearings, in August, 1977, during which a succession of witnesses, including organized crime figures, revealed through testimony the machinations of mobsters in such legitimate enterprises as cigarette vending machines, bars, restaurants, hotels and gambling schools. The hearings confirmed the cooperative interest in casino gaming spin-off action by Angelo Bruno, boss of the Philadelphia-South Jersey crime family, and cohorts of the Gambino crime family of the New York metropolitan area. Bruno himself was a witness.

These hearings disclosed:

- Strong-arm expansion into the cigarette vending business in Atlantic City and vicinity by a mob-controlled company, John's Wholesale Distributors of Philadelphia, and its affiliates. How this company's business tripled, with the aid of its "super salesman," Bruno, was a public hearing highlight.
- The mysterious financial flimflam surrounding the Casanova Disco in Atlantic City, including a \$40,000 "hole-in-the-wall" cache that became part of a maze of cash and bank check transactions.
- An attempted \$12 million purchase of the Hotel Shelburne by a Gambino relative hiding behind an alias while trying to enlist a reputable Philadelphia businessman to "front" for the acquisition.
- The attempt of a crime figure known as "Mustache Mike" to muscle into a prospective Atlantic City casino gambling school.

On January 12, 1978, the Commission submitted to Governor Byrne and the Legislature its "Report and Recommendations on the Incursion by Organized Crime into Certain Legitimate

Businesses in Atlantic City." This report emphasized a recommendation to strengthen the licensing and disqualification procedures under existing law so as to more effectively prohibit the acceptance of applicants with organized crime backgrounds for licensure as cigarette vending agents of the state or as owners and operators of ventures under jurisdiction of the Alcoholic Beverage Control laws.

*Based on the Commission's recommendations, two bills were sponsored by Senator Steven P. Perskie, D-Atlantic. One bill, S-3008, was designed to strengthen the licensing requirements of the State Division of Taxation for those involved in the cigarette industry and the other, S-3010, sought stronger licensing standards for the Alcoholic Beverage Commission. The purpose of these bills was "to impede organized crime from using various subterfuges to camouflage the actual ownership and control of legitimate business." Senator Perskie's bills were approved by the Senate in May, 1979, but only S-3008, pertaining to the cigarette industry, passed in the Assembly and was signed into law.**

23. PRIVATE SCHOOL ABUSES OF SPECIAL EDUCATION FUNDS**

During the early part of 1977, increasing complaints and allegations were circulating throughout the state about alleged abuses by non-public schools of New Jersey's \$26 million Special Education program for severely handicapped children. The State Commission of Investigation was the recipient of a number of such complaints. The Commission's evaluation of these allegations quickly developed into an extensive investigation.

By June, the Commission's staff was pursuing fresh reports of questionable activities if not outright misconduct by some non-public schools. Inquiries in the field were supplemented by in-depth auditing of actual expense budgets and hundreds of bank checks, vouchers, purchase orders, and miscellaneous business records. These inquiries and audits confirmed the misuse of large sums of money that had been earmarked for the education of more than 5,000 children too seriously handicapped to be served by the public schools.

* See Pp. 25-26 of this Annual Report.

** See New Jersey State Commission of Investigation Report on Misuse of Public Funds in the Operation of Non-public Schools for Handicapped Children, May 18, 1978.

The Special Education program about which the Commission was concerned is a critically significant part of New Jersey's overall effort to improve the lives and minds of unfortunate children. Most of these children (some attend special residential schools out-of-state) were enrolled in 125 non-public day schools and 25 non-public residential schools throughout New Jersey. Such schools were required to offer appropriate educational programs for one or more of a dozen categorized handicaps—educable or trainable mentally retarded, perceptually impaired, orthopedically handicapped, neurologically impaired, visually handicapped, auditorially handicapped, communication handicapped, emotionally disturbed, chronically ill and multiply handicapped. While the Commission's inquiry concentrated on financial irregularities in certain non-public day schools, it also touched on questionable operations in residential facilities.

The Commission held public hearings on January 19 and 20, 1978, and on May 18, 1978, issued its formal report to the Governor, the Legislature and the public. The S.C.I.'s recommendations centered on its findings of inadequate staffing and malfunctioning of the Education Department's Branch of Special Education and Pupil Personnel Services, the absence of a clear, detailed list of allowable and non-allowable private school expenses, inadequate record keeping and reporting requirements for participating schools, and an inefficient rate-setting procedure.

In brief, the recommendations included:

Establishment of a more adequate state agency to supervise the financial reimbursement of private schools for the handicapped, with sufficient staff to supervise *all* day, residential and summer programs and with at least five auditors who would be responsible for fiscal control and rate-setting; stipulation of non-allowable costs to eliminate diversion of public funds for non-educational purposes; requirement of detailed reports to the state control agency, including detailed expense budget forecasts and itemized actual cost reports; promulgation of tuition rates by June 15 based on budget estimates adjusted by actual costs submitted by May 1; offsetting of a prior year's excess revenues by the following year's reduced tuition rates, and, in general, establishment of rate-setting procedures that would assure provision of adequate services to handicapped children for which the schools are being reimbursed based on fair and reasonable rates conducive to continuing quality programs.

Several bills focusing on problems bared by the Commission's investigation and hearings were introduced in the Legislature during 1978, during the drafting and discussions of which the Commission maintained contact with appropriate legislators and legislative committee aides.

24. ABUSES AND IRREGULARITIES IN THE BOARDING HOME INDUSTRY*

The Commission's investigation of abuses and irregularities in New Jersey's boarding homes focused on an industry consisting of an estimated 1,800 facilities serving upwards of 40,000 people, most of whom are elderly and disabled. These boarding facilities were assigned to one of two categories—licensed or "unlicensed." The former group consisted of about 275 boarding homes under State Department of Health licensure. But the unlicensed category was further divided, the largest subgroup of which was subject to nominal registration and inspection by the State Department of Community Affairs. A smaller bloc came under local jurisdiction. Finally, an unknown number of facilities operated illegally, devoid of any controls whatsoever.

The fact that more than 1,500 boarding homes were commonly referred to as "unlicensed" underscored the negative quality and lax enforcement of whatever standards that did exist for regulating and otherwise monitoring their activities.

Of New Jersey's total boarding home population, close to 10,000 resided in the homes licensed for sheltered care purposes by the State Health Department. They lived in facilities that offered the most personal care and supposedly were subject to the most stringent standards. However, despite tighter controls than were imposed on other boarding homes, some Health Department-licensed facilities also were targets of harsh critiques during the Commission's public hearings.

The remaining 30,000 boarding home residents were found in the so-called unlicensed establishments. Most of these places provided only room and board and could not legally offer sheltered care or other supervision. Since most of these boarding homes were registered with the Community Affairs Department under

* See New Jersey State Commission of Investigation Report on Abuses and Irregularities in New Jersey's Boarding Home Industry, November, 1978.

New Jersey's Multiple Dwellings Law, they were subject to infrequent scrutiny by state or local inspectors. Moreover, since these inspections were mandated by a law that was ~~not~~ designed to provide guidelines for social services, they concentrated only on structural factors relative to public health or safety. Thus, such inspections ignored the overall adverse social climate in which many boarders found themselves.

As the Commission emphasized, its primary concern throughout its investigation and public hearings was for the wellbeing of the most vulnerable of the human beings forced to subsist in a system that offered no solutions to the special problems that made them easy prey for unscrupulous operators. The Commission's inquiry, therefore, centered on a multitude of boarders who, because of old age, blindness or other disabilities, were eligible for the Federal Social Security Administration's Supplemental Security Income (SSI) benefits. Such SSI recipients were not only numerous among residents of boarding homes licensed by the State Health Department but comprised many of those residing in unlicensed facilities.

The overall target of the Commission's investigation included hundreds of boarding homes of wide-ranging quality and size, operating under various governmental entities, and subject to disparate and conflicting laws and regulations—or no controls at all. Many operators were untrained for their tasks and, all too often, callous and greedy in the management of their homes and the treatment of their boarders. The day-to-day operation of these facilities was largely financed out of Supplemental Security Income checks mailed to eligible recipients at the boarding home where they supposedly (but often were not) residing.

Because of inadequate (and often the absence of) boarding home account books, registers and other records reflecting the flow of revenues, costs and clients, the Commission's staff accountants had to reconstruct numerous financial profiles in order to ascertain the true extent of the mismanagement of these facilities and the resultant abuses against boarders that such misconduct generated. The facts exposed by such audits were confirmed and supplemented through field inquiries by the Commission's special agents. This investigative team work revealed a wide gamut of irregularities and improprieties—the diversion of SSI checks from boarders to the personal use of operators, charging of luxury cars, vacation travel and other personal expenses as business costs, an inordi-

nate use of cash in payment of boarding home bills without supportive receipts, little or no accounting of personal funds doled out to boarders each month, excessive compensation to operators and to relatives of operators, use of unlicensed satellite facilities as way stations for boarder-transfers that improperly increased the cash flow into licensed homes of bigger SSI checks than warranted, and the serving of cheap, substandard food even while the operators netted disproportionately large profits.

Due to the complexity of the issues involved, the Commission was obliged to extend its public hearings through an entire week. In all, about 60 witnesses were questioned during the five public hearing days—Monday, June 26, through Friday, June 30, 1978. Close to 200 exhibits were introduced.

In a 260-page report issued in November, 1978, the Commission listed a score of recommendations to resolve basic problems causing the most serious abuses in the boarding home industry. Designed to expedite the development of more humane, secure and rehabilitative surroundings for elderly and infirm boarders, the proposals were submitted with a belief that they could be enacted and implemented realistically from the standpoint of available personnel and limited funds.

The most important recommendation called for centralization of licensure and supervisory controls over boarding facilities. Since the Commission felt that social services rather than health services should be the primary concern, it proposed concentration of controls in the Department of Human Services that were divided among three departments—Health, Community Affairs and Human Services.

The Commission noted that its proposal would center licensing and monitoring obligations in a department which possessed the most expertise in the area of social services. Moreover, the Department of Human Services, through its Division of Mental Health and Hospitals, controlled the flow of de-institutionalized former mental patients from hospitals to the community. Such individuals made up most of the boarding home population which demanded special attention.

25. ABUSES OF NEW JERSEY'S ABSENTEE BALLOT LAW

This S.C.I. inquiry was reviewed at length in the Commission's 10th Annual Report for 1978, which contained an abridgement of

public hearings held in December, 1978, and recommendations for statutory reforms. This investigation also is discussed on P. 27 and Pp. 31-32 of this Annual Report.

26. INCORRECT INJURY LEAVE PRACTICES

An interim report on this subject was issued in January, 1979, during the Commission's investigation of questionable public insurance procedures by governmental entities. References to this report will be found on Pp. 23-24 of this Annual Report.

27. INADEQUATE SUDDEN DEATH INVESTIGATIONS

A separate public report to the Governor and the Legislature was issued on this subject in November, 1979. Further references to this inquiry are at Pp. 24-25 of this Annual Report.

28. QUESTIONABLE PUBLIC INSURANCE PRACTICES BY GOVERNMENTAL ENTITIES

A three-day public hearing on governmental public insurance procedures was held in June, 1979. A 367-page report was issued by the Commission on problems and abuses in this field in 1980.

APPENDIX II

S.C.I. STATUTE

New Jersey Statutes Annotated 52:9M-1, Et Seq.
L. 1968, C. 266, as amended by L. 1969, C. 67,
L. 1970, C. 263, L. 1973, C. 238, and L. 1979, C. 254.

52:9M-1. Creation; members; appointment; chairman; terms; salaries; vacancies. There is hereby created a temporary State Commission of Investigation. The Commission shall consist of four members, to be known as Commissioners.

Two members of the Commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General Assembly. Each member shall serve for a term of 3 years and until the appointment and qualification of his successor. The Governor shall designate one of the members to serve as Chairman of the Commission.

The members of the Commission appointed by the President of the Senate and the Speaker of the General Assembly and at least one of the members appointed by the Governor shall be attorneys admitted to the bar of this State. No member or employee of the Commission shall hold any other public office or public employment. Not more than two of the members shall belong to the same political party.

Each member of the Commission shall receive an annual salary of \$15,000.00 until January 1, 1980, when each member of the Commission shall receive an annual salary of \$18,000.00. Each member shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside of the State.

Vacancies in the Commission shall be filled for the unexpired term in the same manner as original appointments. Vacancies in the Commission shall be filled by the appropriate appointing authority within 90 days. If the appropriate appointing authority does not fill a vacancy within that time period, the vacancy shall be filled by the Chief Justice of the Supreme Court within 60 days.

A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission.

Any determination made by the Commission shall be by majority vote. "Majority vote" means the affirmative vote of at least three members of the Commission if there are no vacancies on the Commission or the affirmative vote of at least two members of the Commission if there is a vacancy.

Notwithstanding the provisions of section 1 of this act (C. 52:9M-1) and in order to effect the staggering of terms of members of the Commission notwithstanding the term for which they were originally appointed, the terms of the members appointed after December 1, 1978 shall be as follows: the first member appointed by the Governor, 36 months; the second member appointed by the Governor, 18 months; the member appointed by the President of the Senate, 30 months; the member appointed by the Speaker of the General Assembly, 24 months. Thereafter, the terms of the members shall be as provided in P.L. 1968, C. 266, S. 1 (C. 52:9M-1).

52:9M-2. Duties and powers. The Commission shall have the duty and power to conduct investigations in connection with:

- a. The faithful execution and effective enforcement of the 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.

52:9M-3. Additional duties. At the direction of the Governor or by concurrent resolution of the Legislature the Commission shall conduct investigations and otherwise assist in connection with:

- a. The removal of public officers by the Governor;
- b. The making of recommendations by the Governor to any other person or body, with respect to the removal of public officers;
- c. The making of recommendations by the Governor to the Legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law;

d. The Legislature's consideration of changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law.

52:9M-4. Investigation of management or affairs of state department or agency. At the direction or request of the Legislature by concurrent resolution or of the Governor or of the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, the Commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency; provided, however, that if the Commission determines that the requests for investigations from the Legislature, the Governor or the head of any department, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, exceed the Commission's capacity to perform such investigations, they may, by resolution, ask the Governor or the Attorney General or the Legislature in the case of a Legislative request, to review those requests upon which it finds itself unable to proceed.

Within 5 days after the adoption of a resolution authorizing a public hearing and not less than 7 days prior to that public hearing, the Commission shall advise the President of the Senate and the Speaker of the General Assembly that such public hearing has been scheduled. The President and the Speaker shall, after reviewing the subject matter of the hearing, refer such notice to the appropriate standing committee of each House.

The Commission shall, within 60 days of holding a public hearing, advise the Governor and the Legislature of any recommendations for administrative or Legislative action which they have developed as a result of the public hearing.

Prior to making any recommendations concerning a bill or resolution pending in either House of the Legislature, the Commission shall advise the sponsor of such bill or resolution and the chairman of any standing Legislative Committee to which such bill or resolution has been referred of such recommendations.

Commencing in 1982 and every 4 years thereafter, at the first annual session of a 2-year Legislature, within 30 days after the organization of the Legislature, a joint committee shall be established to review the activities of the State Commission of Investigation for the purpose of: (a) determining whether or not P. L. 1968, C. 266 (C. 52:9M-1 et seq.) should be repealed, or modified, and (b)

reporting thereon to the Legislature within 6 months unless the time for reporting is otherwise extended by statute. The joint committee shall be composed of seven members, two members to be appointed by the President of the Senate, no more than one of whom is to be of the same political party, two members to be appointed by the Speaker of the General Assembly, no more than one of whom is to be of the same political party, and three members to be appointed by the Governor, no more than two of whom shall be of the same political party.

No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of P. L. 1968, C. 266 as amended and supplemented, and a general statement of the subject of the investigation. A copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the Commission upon request therefor by the person summoned.

A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the Commission shall ask the witness such of the questions as it may deem appropriate to its inquiry.

A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record.

The Commission shall notify any person whose name the Commission believes will be mentioned at a public hearing. Any person

whose name is mentioned or will be mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the Commission or its counsel at such a hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either in private or in public or both at a reasonably convenient time to be set by the Commission, to appear personally before the Commission, and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record.

Nothing in this section shall be construed to prevent the Commission from granting to witnesses appearing before it, or to persons who claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

52:9M-5. Cooperation with law enforcement officials. Upon request of the Attorney General, a county prosecutor or any other law enforcement official, the Commission shall cooperate with, advise and assist them in the performance of their official powers and duties.

52:9M-6. Cooperation with Federal Government. The Commission shall cooperate with departments and officers of the United States Government in the investigation of violations of the Federal Laws within this State.

52:9M-7. Examination into law enforcement affecting other states. The Commission shall examine into matters relating to law enforcement extending across the boundaries of the State into other states; and may consult and exchange information with officers and agencies of other states with respect to law enforcement problems of mutual concern to this and other states.

52:9M-8. Reference of evidence to other officials. Whenever the Commission or any employee of the Commission obtains any information or evidence of a reasonable possibility of criminal wrongdoing, or it shall appear to the Commission that there is cause for the prosecution for a crime, or for the removal of a public officer for misconduct, the information or evidence of such crime or misconduct shall be called to the attention of the Attorney General

as soon as practicable by the Commission, unless the Commission shall, by majority vote, determine that special circumstances exist which require the delay in transmittal of the information or evidence. However, if the Commission or any employee of the Commission obtains any information or evidence indicating a reasonable possibility of an unauthorized disclosure of information or a violation of any provision of this act, such information or evidence shall be immediately brought by the Commission to the attention of the Attorney General.

52:9M-9. Executive director; counsel; employees. The Commission shall be authorized to appoint and employ and at pleasure remove an Executive Director, Counsel, Investigators, Accountants, and such other persons as it may deem necessary, without regard to Civil Service; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. Investigators and accountants appointed by the Commission shall be and have all the powers of peace officers.

52:9M-10. Annual report; recommendations; other reports. The Commission shall make an annual report to the Governor and Legislature which shall include its recommendations. The Commission shall make such further interim reports to the Governor and Legislature, or either thereof, as it shall deem advisable, or as shall be required by the Governor or by concurrent resolution of the Legislature.

52:9M-11. Information to public. By such means and to such extent as it shall deem appropriate, the Commission shall keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the State and other activities of the Commission.

52:9M-12. Additional powers; warrant for arrest; contempt of court. With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the Commission shall be authorized as follows:

- a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;
- b. To conduct private and public hearings, and to designate a member of the Commission to preside over any such hearing; no public hearing shall be held except after adoption of a resolution

by majority vote, and no public hearing shall be held by the Commission until after the Attorney General and the appropriate county prosecutor or prosecutors shall have been given at least 7 days written notice of the Commission's intention to hold such a public hearing and afforded an opportunity to be heard in respect to any objections they or either of them may have to the Commission's holding such a hearing;

c. To administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the Commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the Commission, every witness attending before the Commission shall be examined privately and the Commission shall not make public the particulars of such examination. The Commission shall not have the power to take testimony at a private hearing or at a public hearing unless at least two of its members are present at such hearing, except that the Commission shall have the power to conduct private hearings, on an investigation previously undertaken by a majority of the members of the Commission, with one Commissioner present, when so designated by resolution;

e. Witnesses summoned to appear before the Commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If any person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, any judge of the Superior Court or of a county court or any Municipal Magistrate may, on proof by affidavit of service of the subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring him before the judge or magistrate, who is authorized to proceed against such person as for a contempt of court.

52:9M-13. Powers and duties unaffected. Nothing contained in Sections 2 through 12 of this act [chapter] shall be construed to supersede, repeal or limit any power, duty or function of the Governor or any department or agency of the State, or any political subdivision thereof, as prescribed or defined by law.

52:9M-14. *Request and receipt of assistance.* The Commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by the State, or to which the State is a party, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

52:9M-15. *Disclosure forbidden; statements absolutely privileged.* a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the Commission or an officer having the power to appoint one or more of the Commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the Governor or Commission, or any person other than a member or employee of the Commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the Commission of such possession or knowledge and to deliver to the Attorney General and the Commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the Commission who shall violate this section shall be dismissed from his office or discharged from his employment.

b. Any statement made by a member of the Commission or an employee thereof relevant to any proceeding before or investigative activities of the Commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander.

c. Nothing contained in this section shall in any way prevent the Commission from furnishing information or making reports, as required by this act, or from furnishing information to the Legislature, or to a standing reference committee thereof, pursuant to a resolution duly adopted by a standing reference committee or pursuant to a duly authorized subpoena or subpoena duces tecum, provided, however, that nothing herein shall be deemed to preclude

the Commission from seeking from a court of competent jurisdiction a protective order to avoid compliance with such subpoena or duces tecum.

52:9M-16. Impounding exhibits; action by Superior Court. Upon the application of the Commission, or a duly authorized member of its staff, the Superior Court or a judge thereof may impound any exhibit marked in evidence in any public or private hearing held in connection with an investigation conducted by the Commission, and may order such exhibit to be retained by, or delivered to and placed in the custody of, the Commission. When so impounded such exhibits shall not be taken from the custody of the Commission, except upon further order of the court made upon 5 days notice to the Commission or upon its application or with its consent.

52:9M-17. Immunity; order; notice; effect of immunity. a. If, in the course of any investigation or hearing conducted by the Commission pursuant to this act, a person refuses to answer a question or questions or produces evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to a forfeiture of his estate thereby, the Commission may order the person to answer the question or questions or produce the requested evidence and confer immunity as in section provided. No order to answer or produce evidence with immunity shall be made except by majority vote and after the Attorney General and the appropriate county prosecutor shall have been given at least 7 days written notice of the Commission's intention to issue such order and afforded an opportunity to be heard in respect to any objections they or either of them may have to the granting of immunity.

b. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence be prosecuted for willful refusal to give an answer or produce evidence in accordance with an order of the Commission pursuant to Section 13, or held in contempt for failing to give an answer or produce evidence in accordance with the order of the Commission pursuant to Section 11; and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceed-

ing or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt or willful refusal to give an answer or produce evidence in accordance with an order of the Commission.

c. If the Commission proceeds against any witness for contempt of court for refusal to answer, subsequent to a grant of immunity, said witness may be incarcerated at the discretion of the Superior Court; provided, however, that (1) no incarceration for Civil Contempt shall exceed a period of 5 years of actual incarceration exclusive of releases for whatever reason; (2) the Commission may seek the release of a witness for good cause on appropriate motion to the Superior Court; and (3) nothing contained herein shall be deemed to limit any of the vested constitutional rights of any witness before the Commission.

Any person who shall willfully refuse to answer a question or questions or produce evidence after being ordered to do so by the State Commission of Investigation in accordance with the act to which this act is a supplement P. L. 1968, C. 266 (C. 52:9M-1 et seq.) is guilty of a high misdemeanor until September 1, 1979, when such person shall be guilty of a crime of the second degree. Notwithstanding any other provision of law, no person imprisoned pursuant to this section shall be eligible for parole or reconsideration of sentence upon a showing that after imposition of the sentence he testified or furnished the required evidence at a time when the Commission's needs were substantially met. Action against such person shall ensue upon a complaint signed by the chairman upon resolution of the Commission. Such complaint shall be referred for prosecution to the Attorney General.

The trial of a defendant for an indictment made pursuant to this act shall be stayed pending the disposition of any review on appeal of the Commission's order to testify and the indictment shall be dismissed if the order to testify is set aside on appeal or if, within 30 days after the order to testify is sustained on appeal, the defendant notifies the Commission that he will comply with the order and does so promptly upon being afforded an opportunity to do so.

Any period of incarceration for contempt of an order of the Commission shall be credited against any period of imprisonment to which a defendant is sentenced pursuant to subsection a. of this section.

52:9M-18. *Severability; effect of partial invalidity.* If any section, clause or portion of this act [chapter] shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

52:9M-19. There is hereby appropriated to the Commission the sum of \$400,000.

52:9M-20. This act shall take effect immediately and remain in effect until December 31, 1984.

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