

P U B L I C   H E A R I N G  
before

SPECIAL SENATE COMMITTEE TO INVESTIGATE STATE HIRING PRACTICES  
(Pursuant to New Jersey Senate Resolution)

Held:  
December 11, 1975  
Assembly Chamber  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Eugene J. Bedell (Chairman)  
Senator Frank Davenport  
Senator John J. Fay, Jr.  
Senator Joseph Hirkala  
Senator James P. Vreeland, Jr.

ALSO:

David Zolkin, Esquire, Counsel to Committee

\* \* \* \*





1 - 15 :I  
16 - 26 :III  
27 - 31 :II  
1A - 10A:II  
11A - 19A:I

I N D E X

	<u>Page</u>
John P. Callahan Director Division of State Auditing Office of Fiscal Affairs	1
Ann Klein Commissioner Department of Institutions and Agencies	9
James G. Kagen Director Division of Youth and Family Services Department of Institutions and Agencies	1-A





SENATOR EUGENE J. BEDELL (Chairman): This public hearing of the Special Senate Committee on State Hiring Practices is now in session. Seated at the table to my far left is the Committee Counsel, David Zolkin. Next to him is Senator Vreeland. To my immediate left is Senator Davenport. To my right is Senator Fay. Senator Hirkala is in the building and will be here shortly. I am the Chairman, Senator Bedell.

The first of those scheduled to testify today is Mr. John P. Callahan, Director of the Division of State Auditing, Office of Fiscal Affairs.

J O H N P. C A L L A H A N: Good morning, Senators. My name is John P. Callahan and I am the Director of the Division of State Auditing. I have with me James Dolan, who is the Technical Director of the Audit Program.

I have come prepared with a statement so that I may respond to the subject matter of this Committee, from the State auditing perspective.

This division, which functions both under the Constitution and the statutes, performs a comprehensive post-audit of each department and agency of the Executive Branch. This audit includes an independent verification of all revenues, expenditures, and special purpose funds. Also, the internal control procedures of all agencies are reviewed by the division, as well as testing the adherence of an agency to State law, policies, and regulations governing fiscal transactions.

By law, the State Auditor reports the results of each audit to the Governor, the Legislature, and to the Executive Director of the Office of Fiscal Affairs.

In our commitment to the Legislature to perform this comprehensive post-audit of all departments and agencies, which we schedule to be concluded during this current fiscal year, I would add that thus far we have audited well over 100 departments and agencies and will complete this project as planned during this current year.

For each audit we have a standard program which includes what we refer to as a payroll audit. The purpose of this payroll audit is to determine that employees are being paid in accordance with State payroll procedures - as enumerated in the statutes, Civil Service Rules and accounting policies; that employees are physically present - measurement of the quality of their work is outside the scope of our audit; that there is an adequate internal control, such as time records, approvals and adherence to work rules; that records pertaining to leave time are accurately recorded and accurately controlled; and that payroll charges to appropriations are accurate.

The payroll audit includes a review of a 23-point internal control questionnaire to determine the degree of accounting and organizational control exercised over payrolls. Included in these points are such areas as: who authorizes employment; who authorizes initial rates of pay; who authorizes subsequent changes in rates of pay; how are pay rates determined; do personnel records show rates for pay; who prepares the payrolls; does the preparation of payroll include check of original time records, check against employment and rate cards, check against production records if pay is on a piecemeal basis; the methods of computing and recording overtime; is an internal audit made of the payrolls; are pay advances made; and are there safeguards against continuation on payrolls of names of individuals discharged or otherwise not entitled to pay?

We also examine whether payrolls, by pay period, are listed to ascertain if fluctuations exist in either regular or overtime payments. Significant fluctuations, if any, are investigated. One payroll in the auditing year is selected for detailed

checking as to payroll makeup, such as food in lieu of cash. From four payrolls within the year, an audit sample is selected for a detailed checking to time sheets, CS-21's (which are the appointing forms), proper authorizations and posting to leave records. From one pay period, there is a distribution of the checks to ascertain that the person is physically present. If the employee is not present to receive his or her check, the reasons for the absence are ascertained.

However, I must point out that no matter how thorough our payroll audit procedure is, that it must be dependent upon proper management control being exercised by those who authorize the payroll, including the certifying officer, Budget and Accounting, Civil Service, and whoever else must authorize additions, deletions and changes. Furthermore, ours is necessarily a sample; and by that I mean that the examination is of a part of an entire population by an auditor to determine any particular characteristic of that population. With the use of scientific statistical sampling, the auditor can give an objective opinion of his sampling results that apply to the condition of the population he examines and a known precision or reliability of the sample results.

The auditor uses statistical sampling as a tool and as an aspect and a variety of verification, examinations and tests which are undertaken during the audit. The statistical sample may be used for different purposes, depending on the type of audit. Since we are independent outside auditors, our primary concern is the confidence that our conclusions are a fair representation of the financial position and statement of an agency. However, an internal auditor - and this is why we do recommend internal auditors in the Executive Branch - may be more concerned with the improper use of an accounting system and the possibility of error contained within a 100 percent review of that system. Therefore, the sample would have a high degree of reliability in catching discrepancies involving numerous employees, but individual exceptions would not necessarily be caught. And this system, I might add, is used by most of the states I am familiar with and independent public accountants.

Furthermore, there is always a possibility of collusion between the approver of the payroll or time records and the individual. An example given by Mrs. Fox in last Thursday's testimony illustrates why an investigator or detective is required in many cases to determine such abuse.

Another area which is part of our current audit program is the review of the classification as to whether an individual is an employee or is an independent contractor or consultant. The importance of this area cannot be stressed too much since the Federal Income Tax Regulations require the withholding of taxes and F.I.C.A. contributions of employees and the payment of the employer's share of F.I.C.A. Furthermore, employees are entitled to certain benefits such as life insurance and retirement annuities, if qualified. Also, if an individual is injured, and is improperly classified as an independent contractor or consultant, then he or she may not be entitled to workmen's compensation. As was pointed out by Mr. Druz, Civil Service rules are not applicable with respect to independent contractors.

Examples of possible consequences of incorrect classification as to whether the individual is an independent contractor or employee is that the employer may be liable for retroactive payment of F.I.C.A. payments for both employer/employee contributions or for the employer's share, depending upon the circumstances. In this regard, according to Federal tax regulations - and this is a very important aspect - if the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as



a partner, co-vendor, agent, independent contractor, or the like.

Furthermore, the employer may also be liable for any taxes not withheld and not paid by the taxpayer. Also, an employee, improperly classified as an independent contractor, may not be entitled to State insurance benefits, including any contributory portion. The criteria for employer-employee relationship, in general, state that if an individual is subject to the control or direction of another merely as a result to be accomplished by the work and not as a means and method of accomplishing the result, he is an independent contractor. However, unless it can be clearly shown that the employer-employee relationship does not exist - I say does not - it shall be assumed that such a relationship exists, and the individual shall be considered to be an employee. We have recently expanded our audits in this area to include not only a review of the paper work, which in many cases may be scanty, but an interview with individuals who are hired as independent contractors to determine whether they meet the criteria of independent contractors.

However, it would appear that the inquiry of this Commission takes in broader questions, and I would like to spend the next few moments in that area. In the past four years, my observation of having visited more than 100 departments and agencies is the primary necessity for greater emphasis on management principles and practices at all levels of government. It would seem to me that the first act of any governor, present or past, would be to establish an office of management and productivity reporting directly to him, which would cut through all of his departments. This office would insure, among other things, that the top person in each department or division would have both an understanding and background in management. It is very difficult for a competent manager at a lower level to be totally effective if his or her boss does not really have an understanding and grasp in this area - a total lack of communication.

Sound management at all levels would be concerned with the appropriate utilization of manpower for the manager's materials are human talents, including his own. The core of his job is to accomplish grand purposes through human efforts. Those who manage others need a knowledge and appreciation of motivation which requires a deep understanding of human beings; and individuals who are under civil service, which I am not, are just as human as unclassified employees and are governed by the same levels of motivation. This evaluation would also include a determination of current career employees to determine if the skills are available already for senior positions, rather than an immediate turn to the outside. This does not mean, however, that there is not a turning to the outside for a senior position if that is what is required. However, it should be accomplished under the principles of sound management. I can probably use as the best example the auditing when I came in. I saw that we had many very bright and hard-working career employees, some with employment records of up to 30 years in State government, all being classified employees. What was necessary was proper motivation of these employees and the proper senior technical management to assist that. Therefore, three senior technical CPA's were brought in this area. However, the senior management positions of my staff were filled with career employees. In that particular case, both methods were used very effectively.

Also, the implementation of sound management principles and practices would dictate that each department would set into motion the planning, controlling, and action phases of good management. I repeat that: planning, controlling, and action phases of good management. This would include the preparation of the budget on the basis of "what are the needs I should be meeting," and start from scratch or zero-based budgeting, as it is called, rather than taking the current as for granted. This does not mean just filling out the right forms, but rather a substantive review and imaginative approach - and, of course, a responsible budget-review cycle at all levels.

I would imagine certain agencies and departments are performing this.

In the area of controlling, it is necessary to establish a realistic project control system to meet your goals. When I first came to State government, someone said to me, "Jack, you must understand Rome wasn't built in a day." I said, "That is true, but it wasn't built in 10,000 years either." There is a proper median between a day and 10,000 years and that is what we must be approaching. There is an old saying, "If you don't know where you are going, any road will lead you there." In many cases, I see that happening. There is not the objective setting of goals and then the means to meet those particular goals.

Sound management requires the introduction of systems: general systems, EDP systems, as well as systems of productivity measurement. It does not only include work measurement or quantity output. Sometimes people think in terms of productivity measurement, just going down and seeing how many pieces of paper a clerk is putting out. But the much broader facet, in my judgment, is the quality of work and the responsiveness in fulfilling the stated goals and objectives for the benefit of the taxpayer. There are many studies and training sessions being conducted in numerous states in this area, so that a wealth of material is present. This does not mean that New Jersey workers are not hard-working people. Our observations for the most part are that they work hard and are basically intelligent. But with the changing environment and the complexities of government, it is necessary that the skills be constructively upgraded and techniques modernized. For example, someone who may have been an effective bookkeeper for many years, with the changing in accounting systems, it is more important that he become an accounting systems specialist. He can provide greater service to his agency rather than continuing along with his skills as a bookkeeper.

Of course, this gets into the area that Ken Bragg alluded to; and that is training - training at all levels, particularly middle management. I think in-house training is a good example and not just sending people off to places to take courses.

In auditing, the most significant contribution to the professional development of our staff comes in the form of on-the-job training. Based on our experience, better than 95 percent of our training falls into this category. Recognizing the importance of this training media (and likewise recognizing our obligation to perform quality audits of minimum cost) we have tried to encapsulate the on-the-job training needs into our total audit program concept.

We have first attempted to equip our supervisors with the necessary tools to enable them to do an adequate job of supervision and training of their subordinates. This is the "train the trainer" concept. Toward this end, we have given specific courses designed to enhance the supervisor's skills in these areas. In addition, we maintain a close technical oversight of all audits. In this manner, our technical staff is able to identify weaknesses.

We also provide technical performance evaluation. And, lastly, in our scheduling process, we try to provide the broadest range of assignments. This is all necessary.

From a broader point of view, however, management training schemes seldom leave room for the gradual process of learning. Consequently, there are many people - some in high positions - who are deficient in even an elementary understanding of the importance of human relations. And when ill-prepared persons have to deal with areas in which they are weak, for instance, accounting methods and sophisticated management information systems, their lack of human skills is even more crucial than their lack of quantitative ones. The gaps in their training place continual stress on all their subordinates.

In summary, I have attempted to point out the importance of management principles



and practices which are not only applicable in industry, from where I came, but applicable for effective government as well.

I thank you for this opportunity to make this statement.

SENATOR BEDELL: Senator Fay, do you have any questions?

SENATOR FAY: Not at this moment.

SENATOR BEDELL: Senator Vreeland.

SENATOR VREELAND: Just a couple, Mr. Chairman.

You mentioned internal audits and outside audits. You said - and I think I am quoting you correctly - that your department does the outside audit - right? I think you said that you felt, for example, any division or any department of the State ought to have its own audit. Is that what you are really inferring?

MR. CALLAHAN: No, what I said was essentially that we are representing the Legislature and that we would perform the audit of all State government over a three-year period. This certainly is required, but what further is required is a group within a department - it need not necessarily be every department, depending upon the size, and some of this can be centrally located, for example, within the Treasury Department - that would perform these hundred percent checks. Some of this is going on in State government, but I feel it needs to be accelerated.

SENATOR VREELAND: Why wouldn't that be part of your function as the State Auditor's Office, to have these people, if that is what you think ought to be, in certain departments? Why wouldn't that be your responsibility to see that they are there to do that in the departments where you think it is necessary?

MR. CALLAHAN: You mean to have the general audits under us, functionally working for us?

SENATOR VREELAND: Right.

MR. CALLAHAN: I think essentially what is required, Senator, is for us to do the broad program and for us to maybe set the standards for what the internal auditor should be. I think that auditor, reporting directly to the commissioner, can be much more effective in that particular environment; and I think that is more in keeping with the general statutes and the Constitution as I currently understand them.

SENATOR VREELAND: And not report to you.

MR. CALLAHAN: Not report to us - the internal auditors.

SENATOR VREELAND: The other question I had: You said that there should be sound management at the top.

MR. CALLAHAN: Yes.

SENATOR VREELAND: This is a must. Now when you talk about "top", are you talking about department heads?

MR. CALLAHAN: I am starting at department heads.

SENATOR VREELAND: Isn't it a fact though in our system of government that we have, which is the democratic way, that many times a department head could be a political appointment, couldn't he?

MR. CALLAHAN: He could be, yes.

SENATOR VREELAND: And it would be difficult to do what you are saying. You know, it might not happen that way because the political appointee might not be that well versed in sound management principles.

MR. CALLAHAN: I think it is a basic injustice not only to the employees in that department but to the individual himself, to take an individual who has had no experience in management and all of a sudden to make him in charge of a thousand or fifteen or twenty thousand people. It would be similar to a major division of General Motors taking someone without the particular experience and making him manager of a major

division. I think that is really not in the best interest of government or the taxpayers as a whole to have that type of a system. I think it is absolutely essential for a person to manage a large department to properly understand the principles and concepts of good management.

SENATOR VREELAND: I don't think there is any question that what you are saying is fine. But what I am saying is that it could happen and probably does, not necessarily in any administration, but because that is the system of our government under which we operate.

MR. CALLAHAN: Yes. I think that an individual can certainly be sensitive to the policy needs of a particular administration and be very, very skilled in such areas as health, as an example, but that that person can also be a very good manager. I think this gets back to the recruitment of individuals to serve in the administration. It should be required that these individuals have this type background as well as a knowledge of the substantive area, and also be sensitive to the policy and demands of the particular party in administration. I think it all can be done, Senator, and that one is not mutually exclusive, by sound recruiting.

SENATOR VREELAND: Thank you, Mr. Chairman.

SENATOR BEDELL: Mr. Zolkin.

MR. ZOLKIN: I just have one question. Mr. Callahan, when you spoke in terms of the payroll audit, looking for discrepancies, etc., did you also look at the payroll with the thought of the rules of the Civil Service Department, relating to hiring, being complied with?

MR. DOLAN: Yes, sir.

MR. ZOLKIN: So that when you have done your audit, you would know based upon your audit whether a person has been hired properly from a list, whether a person has been hired as a Project Specialist, etc.?

MR. DOLAN: We would not know 100 percent. We would know for those that we have tested and we would have an opinion as to the soundness of the system. It does not mean that an individual could not have been hired improperly. But we would know that there were no wholesale exceptions to civil service rules.

MR. ZOLKIN: Along that line, if a person is hired as a Project Specialist or as a Consultant, any one of those particular kinds of functions, would you also verify that it is from a funded program, either federally or otherwise?

MR. DOLAN: We do check where the charge ultimately goes.

MR. ZOLKIN: So that in your office, if an audit was made of a department, you would have a list of the Project Specialists and from where they have been paid ultimately?

MR. DOLAN: We would have a list for those that we have tested.

MR. ZOLKIN: Spot testing?

MR. DOLAN: Yes, it is. It is statistical testing.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: In your audit are the categories broken down to classified and unclassified?

MR. DOLAN: Not in our audit. Each of the individuals on the State payroll, Senator, is classified or unclassified. We do go back on a test basis and review the personnel files so that we do know whether they are classified or unclassified for those in our population that we are testing.

SENATOR FAY: In this audit, do they spell out and define their Project Specialists, as to exactly what projects they are specializing in?



MR. DOLAN: Only in the broad category of the program as it appears in the budget. In other words, it may tell you that the employee is working on federal project X, but it would not tell you what specifically he is doing within that project.

SENATOR FAY: Are Consultants so defined in the audit? Are the per diem payments for Consultants identified in the audit?

MR. DOLAN: Again the consulting category is a category of accounts which the State uses. Again, on a test basis, we will go in and test the payments through the paper work and through the job which is being accomplished. And recently, we have begun even interviewing them.

There are two classification of Consultants, if I may explain, Senator: one, the nationally-recognized consultants, mainly your public accountant firms, or Booz, Allan, Hamilton, and some others; second, you have individuals generally drawn, because of specific skills, quite frequently from the colleges and universities. We generally will limit our tests to the paper work and a review of the report which emanates from the nationally-recognized ones. We would not conduct interviews with them. We would conduct interviews on a test basis with individuals to make sure that they fit the categories.

SENATOR FAY: With Project Specialists and Consultants, is there any definition - is there any indication within the audit that they are working full time for the State or that they do have other employment besides the Consultant fee or besides the salary that has been arrived at for the Project Specialists? Is that within the audit, that they are working full time for the State?

MR. DOLAN: Some Project Specialists do not work full time. There is a classification called "per diem," where they are paid on a day basis.

SENATOR FAY: Do you know how this per diem rate is arrived at? With the nationally-recognized groups, I don't think there is any question that they have a going rate and that's it. But in the other category of Consultants where we find \$100 a day or \$150 a day or \$72 a day, just how is this per diem rate arrived at?

MR. DOLAN: The audit would not get into that, Senator. Basically we would take the approvals of the rates as they appear on the documents; and, if they were properly approved, we would accept them.

SENATOR FAY: In the extraordinary account of the budget, does the audit go into that to break it down so there is a spelling out of the lump sum that we find in the budget under extraordinary accounts?

MR. DOLAN: No, Senator, the audit, itself, is concerned with the revenues and expenditures. I think what you are asking is: Do we analyze each of these particular accounts? No, we do not. We would ascertain, again on a test basis, that that which is charged to extraordinary or to any other account is a proper charge to that account.

MR. CALLAHAN: I might add, Senator, our budget review function does that.

SENATOR FAY: Yes. Last week, the testimony brought out that under provisional employees there were quite a few abuses of the law or a lagging behind with regard to provisional employees under the State classified. Would the audit note that or would budget review? That would be budget review's responsibility. It would not be your responsibility to tell the commissioner or to tell the department head, "no, you are still paying people and possibly violating the law in doing so."

MR. CALLAHAN: That would be budget review, Senator. But I might add that what we do in the course of an audit is make any observations through either our budget review or program analysis functions in these particular areas in the course of an audit.

MR. DOLAN: I might add, Senator, on that: In our audit of Civil Service, we did

note the need that they had for increased automation and a review of their manpower in order to bring them up to date in this particular area. So that was covered.

SENATOR FAY: For example, in the audit, when you recognize people being moved from Consultants to Project Specialists to provisional employees, would this strike you?

MR. DOLAN: Not necessarily.

SENATOR FAY: Possibly would you recognize avoiding or trying to out-flank or go around civil service in some of these appointments?

MR. DOLAN: My answer would be again that we would look to insure that the procedures and policies as set up by the Executive Branch were being following. If, indeed, we had those proper approvals by properly-authorized people, we would accept those. We would not look upon that as going around the system, so it would not be an audit exception.

SENATOR FAY: Because I noted in the testimony last week from the Office of Fiscal Affairs the implication that there has been, if not a breaking of the law, an avoiding of the law, and the using of categories that did not meet the criteria. This was in a report handed in, in January, and I am just wondering now that it is December whether any corrections or any changes have been made within the year.

MR. CALLAHAN: I can check that out in terms of our Division of Program Analysis or Budget Review, whoever it was that made those particular statements. I would add that in terms of internal control, if we notice flagrant violations, we would certainly report this as part of the internal control. But, essentially it has been said that in the review of past paper work, it is very difficult to define that matter.

MR. DOLAN: If I may, Senator, there are two other things: The Executive has issued a circular letter 75-1, by the Division of Budget and Accounting, which defines the guidelines for hiring Consultants. In addition to that, in their chart of accounts, they specify the criteria for the classification of employees. These are both procedures against which we audit. They are one of the criteria when we are in these areas.

MR. CALLAHAN: We will make copies of these available for the Committee.

SENATOR FAY: Not only this Committee, but the Appropriations Committee would absolutely need these kinds of reports when considering appropriation requests. Thank you very much.

MR. CALLAHAN: Thank you, Senator.

SENATOR BEDELL: I have no further questions.

Mr. Callahan and Mr. Dolan, I want to thank you for giving us your time today. The Committee will quite possibly be calling you back at a future public hearing to document some further information.

MR. CALLAHAN: We will be available, Senator. Thank you very much.

SENATOR BEDELL: I would like to get into the record at this point something I have neglected to say; and, that is, if any taxpayer, any citizen or any public employee wants to testify or has information he feels will be useful to this Committee, we would be very desirous if he will so advise us. Mr. James Carroll is our Legislative Aide and requests for appearances before the Committee or submission of documentation should be directed to him. Mr. Carroll is the gentleman immediately behind me at this time. Jim, what is the telephone number?

MR. CARROLL: 292-5526.

SENATOR BEDELL: I would like to call upon a former colleague of most of us at this table, who has since gone on to greater things, our Commissioner of Institutions and Agencies, the Honorable Ann Klein.

Might I say something, Mrs. Klein, before you commence your remarks. I noted this morning in the paper - not that I am partial to any one paper, but I happened to buy the Star Ledger - that you said the reason you had a press conference preceding your testimony before this Committee was that you weren't informed you were coming before this Committee until three o'clock Tuesday, so the paper said. I place no margin for error on your part, but I did speak to someone in your department concerning your appearance or a surrogate's appearance before this Committee today. We did not have you scheduled originally. We did not intend to call you at this time. I was given to understand by the representative of your department that your department did want to testify or that, because of the obvious heat, shall we say, from the media that you were going to have to have a press conference to respond. At that point, I said we would be delighted to take your department up today. So I was a little disappointed to learn of your press conference yesterday because, had we known it was going to take place, we in all probability would not have called you at this time.

A N N K L E I N: I am very sorry, Senator Bedell, because the message that I got was that - and it obviously was a misunderstanding - you weren't certain whether you would be able to and that is when we decided to. If it was different than that, I really am sorry; but that is what I understood.

SENATOR BEDELL: I did not speak to you directly.

COMM'R KLEIN: I know. I did try to call but ---

SENATOR BEDELL: I will say at this point that we will be calling you or someone in your department back at subsequent hearings as questions may develop.

COMM'R KLEIN: Sure. We are at your disposal.

SENATOR BEDELL: Thank you very much. You may proceed. Thank you again.

COMM'R KLEIN: I suppose in a way I feel responsible for all of you sitting here and holding these hearings because it was our division that was, as I said yesterday, rather improperly blasted in the papers on the basis that we had some people who formerly worked in New York working in the Division of Youth and Family Services.

As a result of that, we have really done a very careful and complete analysis of the employment in our department and in the division because you can respond to a charge of facts. For instance, there were 16 people hired in the Division in the last 20 months from New York City or with previous experience in New York City. That is a fact and you can respond to that. But what you can't respond to is the kind of innuendos that somehow this was involved with all kinds of strange machinations and cronyism and all that. You have to have a much more complete analysis in order to respond to that kind of thing.

We forwarded to you a full report that was done by DYFS at our request - I think you all have it at this point - which responds point by point to all of the charges that were made in the paper and which satisfies me completely in terms of answering those charges. In addition, we prepared a summary of that report because it is a very lengthy report, and I think you have that also.

I know that you said in your letter to us that you wanted to know what our personnel practices are in the department and it is very important. We have a very large department. We have almost 20,000 employees. We are probably the largest hirer in the State because of all of the institutions that we run. Our policies are -- my policies are: First of all, you want to, whenever possible, promote within the department and within the State government people who have experience and who have given years of service to the State. Secondly, I think it is very important that we do whatever we can in terms of affirmative action to promote and to hire women and minorities into



our State government and we have a very, very excellent record in our department in the last 20 months in this regard. But perhaps the most important thing is that this is really very important business, State government, and I know now that I am in the Executive side that the picture you have of it when you are on the Legislative side and the picture you have when you are on the Executive side are not identical. You see the problems of making things work once you are in a position where you think you have a good deal of control and power and ability to move. But there are all kinds of things that make it very difficult to achieve the things that you want to achieve in a short period of time.

So I think it is perhaps most important that we try, whenever possible, to always have the idea of quality performance and the best people that you can have in the jobs.

Now I have nine division directors that report directly to me who are in unclassified slots who have a lot of responsibilities and substantial salaries in terms of New Jersey standards. Of those nine, four are still there who were there when I came and five are people whom I have appointed. I think that it is important to note the appointments that I made. In the Division of Public Welfare, for instance, there was an Acting Director, Mr. Thomas Riti, who had been Acting Director for quite a while previous to my coming, who has been in the civil service system for many years. He came right up through the Bureau of Children's Services in the Division of Public Welfare. He became a deputy and then was Acting Director. I waited a few months to evaluate his performance and the way he was handling that division and decided that there was no reason why he should not have the title and the salary and everything that goes with being Director, and I appointed him to be Director. That was one of the appointments I made.

Dr. Rotov was the Deputy Director of Mental Health when I came into the department and Dr. Weinberg was the Director. Dr. Weinberg had been sort of drafted and dragged into the slot by Commissioner Clifford and really was anxious to return to the hospital to be Director of Trenton State Hospital from whence he had come. Eventually I was unable to persuade him to give it a little more time. That's a very, very tough job, Director of Mental Health. And you may not know, but that position was vacant for five years in New Jersey. I can remember speaking to Commissioner Clifford when he was Commissioner and saying, "Can't we find somebody to fill that slot of Director of Mental Health?" He said that they were recruiting all over the country, Canada, etc., and they just couldn't get anybody to come and take that job. Well, in the period of time I was there, I had an opportunity to see Dr. Rotov and the kind of work that he did and to look at his credentials, which are absolutely impeccable. He has everything you would possibly want in the way of professional credentials, having written professional papers, being highly respected by his profession, with some 30 years of experience, I think, in the division right up through the hospital, and yet a man with enormous capabilities, intelligent, and a capacity to seize new ideas and move forward. And I saw no reason why he shouldn't be the Director of the Division of Mental Health and I appointed him.

I would like to say in these appointments, I never had any concern about what their political affiliations were or any previous kind of activities that had to do with any campaigns or anything like that. I dare say some of them are Republicans, I'm sorry to say. But we were looking for qualified people and to promote whenever possible.

I did replace the Director of Medical Assistance and, in replacing that person, there was a young man in the department when I came who had been an assistant to Commissioner Clifford. In a very short time, I was extremely impressed with his

administrative ability, his knowledge of the system, his experience both in health and in the department, and his ability to be a leader and to deal with people and to articulate to the public the problems of the department. So when that vacancy occurred, I appointed him to that position. I never knew him previously. He is a New Jerseyite, I believe.

There was one position that I went outside for and that was for the Division of Youth and Family Services, and I would like to explain why. Now I don't happen to think there is anything wrong with going outside to hire people because I think a lot of people who live in New Jersey work in government either in New York City or in Philadelphia, and we are sort of a metropolitan area. The advantage we have when those people work in New York is that New York pays their salaries and we collect the commuter tax. But, basically, it never really had occurred to me that anybody would take exception to the idea that in looking for people that you would look as far as was necessary to find what you felt would be a person who could handle the job.

Now DYFS is a tough division. It is bigger probably than almost any of the departments of government in terms of its numbers of employees and certainly its budget and the complexity of its programs. When I first came into the department, it was very difficult to evaluate exactly what was going on managerially in that division because in our department every division sort of operated as a separate little empire. And I didn't have the budget staff and the planning staff that I now have so that I can have some kind of a managerial overview of the division. That simply did not exist in the department. They really were separate departments with somebody who acted as a buffer, I guess, between the Governor and the five divisions, but who actually had no capacity to look into those divisions or evaluate what they were doing. But I knew that this was a division that had started as a Bureau of Children's Services and had mainly over the last 75 years been responsible for adoptions and for foster placement, and that most of their work actually did consist of foster placement. All of a sudden, two years ago, this was made a division of our department and it was given all kinds of major new responsibilities. All of the day care activities which had been over in the Department of Education for so many years were moved into this division. In addition to that, the JINS legislation was passed. I came into office in January. The JINS legislation was to be effective March 1st and there wasn't any planning or advanced notice of that implementation. The only thing the division was planning to do that I could see was to turn the State Home for Girls into a JINS facility and that seemed to me to be counter-indicated by the law and the intention of the law. All I could see is that we would end up, instead of having 50 girls in the State Home for Girls, having five or six hundred kids in the State Home for Girls. So I disapproved of that.

In addition to that, soon after I came in, the Dodd law was passed, which gave us enormous responsibility in terms of intervening and treating child abuse and neglect.

The day care programs had gotten started in New Jersey, but I was looking at a situation where New Jersey had available to it \$88 million of federal money to spend for day care, homemaker transportation and all kinds of other social services and so far the department and the division had only been able to rev itself up to use half of that money.

I had two major things I wanted to do: Number one, I wanted to get for New Jersey this social service money because having been a social worker and having worked in the field, I knew the needs out there. And I felt it was just terrible that, with the tremendous needs of day care and for all of these things, we weren't using the federal moneys that were available to us. So that was a major thrust.

I had a couple of other things that I wanted to be done. I wanted to be sure that we had a thorough track on the kids that were in foster homes, that there were not kids being lost and left in foster homes forever, and I wanted to get a handle on that and get as many of those children who could be made available placed for adoption or at least to know that they were not available for adoption.

A third major thrust I had was that I was concerned about the management. I know how scarce our tools are in terms of both management people and hardware with which to manage very complex agencies. I don't think you realize it until you get in. I felt with the thousands of contracts that we were writing with day care facilities and foster homes and payments for residential treatment, and with an expansion of that service anticipated, that we really had to have the experience of someone who had run a large agency. For that reason, I looked and I brought Mr. Kagen into the department, even though he had worked in New York. He moved to New Jersey and has been living here ever since he was employed here.

I think it is really outrageous to imply some of the things that have been implied about the fact that this simple thing was done. I must point out to you that 20 months ago, we really didn't think of New York as being some kind of a foreign, threatening power or that there was something ---

SENATOR FAY: What things were implied?

COMM'R KLEIN: Pardon me?

SENATOR FAY: What implications are you talking about?

COMM'R KLEIN: I think that you have read the articles, Senator.

SENATOR FAY: Yes.

COMM'R KLEIN: I think if it were not for those articles, you would not be holding these hearings. The implications were terrible. I can show you some of the hate mail I have received as a result of those articles. I don't even want to say what those implications were. I think they are very, very crystal clear. I would be glad to give you some of the mail.

SENATOR FAY: I don't find them crystal clear. When you say "implications", it is a generalization. I wish you would be more specific.

COMM'R KLEIN: Well, all right. It was said that I created a haven for New York people in an emergency when they were losing their jobs. If you want to read Franklin Gregory's article from Thanksgiving Day, his letter to Abraham Beame saying, "Don't worry, Mayor Beame, Ann Klein in the Department of I and A is going to help you. We are going to bail you out of your troubles." Those are the implications. That is what I mean and that is why I am here to say that our decisions on hiring have always been based on what we think will help us do the best job for New Jersey.

I think those articles were cruel. I think they were unfair to the people that have tried to help us.

I want to get on to the next thing because a lot was made out of the fact that sixteen people came into the division over a two-year period to work on special projects and to, in some cases, get permanent assignments. You have to look at it in perspective. The division was a rapidly-growing division. They hired almost a thousand people into unclassified or provisional slots during that period, and these were sixteen people out of a thousand. I gave you the records of all of the provisional positions and all of the unclassified positions, the Project Specialists, Consultants, everything that we have in our entire department, so that you can have it at your disposal and look at it and understand what the kinds of people are that fill these positions.



I have heard you asking before about \$100 a day. Lawyers are expensive - they are expensive. First of all, the department never was given any positions to hire lawyers. In fact, there was a feeling you should only use the A.G.'s.

SENATOR FAY: The only hundred-dollar-a-day Consultants are lawyers?

COMM'R KLEIN: Some of them are lawyers.

SENATOR FAY: How many?

COMM'R KLEIN: Well, I'd have to ---

SENATOR FAY: Are there other people hired for a hundred dollars a day who are not lawyers?

COMM'R KLEIN: Mr. Kagen can answer that. What do you have? I don't have a list.

MR. KAGEN: Would you like me to break down the hundred-dollar ones?

COMM'R KLEIN: Yes, I think you should.

SENATOR BEDELL: Pardon me, but I don't want at this point to interrupt the train of thought that we have. I would like you to continue with your statement and allow the Committee to ask questions later.

COMM'R KLEIN: All I can say is that the report that we gave you has attached to it all of the resumes of all of the people who were brought in. Nobody has ever said that anybody who was brought in was not fully qualified. Nobody had been fired from a job or was brought in here as a refuge. These were people that were recruited. I will tell you that if I went to another state to take a job, there are people in my department, people in this government, that I would want to take with me, people that I knew, not personally knew, but knew of, people whose capabilities were known to me, that I would feel would help me to do a job.

Recently I lost one of my best employees to Illinois, a terrific fellow from Middlesex County. He was hired to be an assistant to the Budget Director out in Illinois. He took with him another employee from my department, which I think was a tremendous loss. This is the way life is. If you are dealing with these complex jobs of running a department such as this, you have got to have available to you, whenever possible, people that you have some reason to be able to depend upon to do the job.

I think it was absolutely normal that if you hired somebody who had experience in a huge agency in New York and if you came in and found the kind of managerial problems that were facing that division, you would not be able to move fast enough to get some help. In doing that, there is absolutely nothing irregular, nothing wrong, about using the available slots and positions that are made available to you through civil service and through personnel practices in the government. If you want that not to exist, if you want there only to be civil service slots or that there shouldn't be any per diem Consultants and that everybody has to be brought in as full time and paid 18 percent fringe benefits and be kept for a year, instead of using them for three days or five days or three months or whatever, then that is to be legislated. But, frankly, I think we get more back for the buck out of being able to hire some of these Consultants on a per diem, and we have a lot of them in our department in all kinds of professional positions: doctors and dentists and everything else. You should look at that. We could not hire those people to work in the prisons and some of the other institutions if we had to go out and try and hire them for the \$27,000 a year that we start a doctor in New Jersey, and I don't even think it is that high.

We have to look at the total perspective of the thing and not get carried away by the kinds of innuendos that were made. I think I have probably spoken too long. I would be happy to try to answer your questions. I don't know if I can answer them all.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: I will wait.

SENATOR BEDELL: Mr. Zolkin.

MR. ZOLKIN: I would rather defer questioning at all until I have had the opportunity to digest some of the documents that have been submitted.

SENATOR BEDELL: Senator Vreeland.

SENATOR VREELAND: Thank you, Mr. Chairman. I think, as Mrs. Klein points out, the reason we are here - and I don't think there is any question about it - is because of the articles.

It is a fact of life, I think, that Mr. Kagen came from New York from some sort of a program that was discontinued. Isn't that so? I think that is so because, at least, the paper says that. The paper says this agency was "a unit in New York City's Health Services administration, which currently is being dismantled as one of the moves in an effort to keep the city from drowning in a sea of red ink."

COMM'R KLEIN: What is the date of that? That is a very recent article. It certainly was not disbanded at the time he came.

SENATOR VREELAND: But it is true, isn't it?

COMM'R KLEIN: It certainly was not disbanded at the time he came here. He was Director of the agency. That was some 18 months ago. Now that was an \$85 or \$87 million drug addiction program that dealt with about 30,000 people in about 300 centers. It was a large agency, yes. I don't know whether New York has had to disband it. I haven't heard that they have.

MR. KAGEN: I don't know what they are doing with the administration of the agency, but I can tell you that the contracts, the \$85 million in services that are provided to over 30,000 individuals, are not being disbanded, although, I imagine, in two years there have been some cuts and changes in the size and scope of the program up and down.

SENATOR VREELAND: Well, I think that the question we are faced with is: Did you make an effort to hire people in New Jersey to fill these jobs that you felt were necessary to be filled in order to have an efficient operation in the Division of Youth and Family Services? Let's just take that division.

COMM'R KLEIN: I tell you when I place my confidence in a Director - and that is true throughout the divisions - I do not tell them whom to hire. In fact, you can ask any division director in my department. I have never told them whom to hire. They are in charge and I hold them responsible for the job that they do, and that means that I have to give them the leeway to do the hiring of the personnel and everything else in their department. They are limited in what they can do. Most of the slots in most of the departments are civil service promotional slots, but they all have numbers of non-classified slots. I think you would find the same thing true at the division level, that they do not tell the hospitals whom to hire - that the hospitals do their recruiting because the director of that hospital has to be responsible for the management. And if you tie him up or if you tell him whom he has to hire, you are not going to be able to hold him responsible.

Now, I think that is a kind of refreshing thing. And I will tell you that I was a little bit surprised when I got into the Executive Branch because I was used to the Legislative Branch. I really didn't know what kinds of hiring there would be in government, what kinds of pressures there might be, political pressures, etc. And I am really happy to tell you that there have been very few legislators or very few county chairmen or very few political people or people outside who have ever tried even to influence the hiring practices or to get anybody a job or put them in.

That doesn't mean it has never happened, but it has very seldom happened. Therefore, I feel as though, if you put somebody in charge, they are responsible for running that department or that division or that agency, and you have got to let them do the hiring. So I didn't do it.

SENATOR VREELAND: --- which was the case with Mr. Kagen. In other words, he brought people in from New York on his own, I gather.

COMM'R KLEIN: Mr. Kagen, in order to put anybody on his payroll, had to go through the whole process of getting approval from Civil Service for the hiring, getting approval from the Budget Bureau, his BB-10's had to be signed and sent in. I mean, he can't just go in and take somebody and put him on the payroll. There has to be a job description. There has to be a resume. There has to be a justification for the job. There has to be a justification for the salary. It is not a simple process. And, even when you are hiring unclassified people and you don't have to go to lists and so forth, it still takes a considerable amount of time to get people on board.

SENATOR VREELAND: Weren't most of these people unclassified? According to the information we have, they were unclassified. They are not under civil service. Isn't that true?

COMM'R KLEIN: But, as I say, even with that, you have ---

MR. KAGEN: May I answer that?

COMM'R KLEIN: Yes, please.

MR. KAGEN: I thought perhaps it would be useful to tell you some of the numbers that are involved in Project Specialists and per-diem Consultants in the division. Would that be helpful?

SENATOR BEDELL: Mr. Kagen, are you going to testify, yourself?

COMM'R KLEIN: As you wish.

SENATOR BEDELL: Then I would prefer to wait and have questions directed to you after you have testified yourself, if that is all right with you, Commissioner.

COMM'R KLEIN: If you prefer that.

SENATOR BEDELL: I would rather just stay with you for the time being.

COMM'R KLEIN: Okay. I will just say that there were sixteen that we have been able to identify, out of a thousand hired, almost a thousand, 997 provisional appointments, that had any kind of experience in New York. In a couple of cases -- in one case, for instance, the person had not worked in New York since 1968, but the person was still listed as a former New York employee by the newspaper. Three of them worked as Consultants on special short-term projects, completed the job and terminated their employment. Five additional consultants are working on projects and will complete their assignments and will terminate their employment at that time. Five are now in full-time, classified titles. And when tests come up for those titles, they will have to compete in those tests along with others who are interested. Three are awaiting the establishment of such classified titles. I have gone over a list of how long it takes from the time you ask for a title to be classified until you get it classified. And it can range anywhere from five months or six months to two years before you finally get to the place where the test is available. That is what has happened. Of those three that are awaiting classified positions, two are in Project Specialists' slots and one is a Consultant.

SENATOR VREELAND: Mr. Chairman, may I go on?

SENATOR BEDELL: Certainly.

SENATOR VREELAND: Mrs. Klein, I think you said since you have been here you have had a thousand additions to your ---

COMM'R KLEIN: --- to DYFS staff.



SENATOR VREELAND: Right. Out of that 1,000, how many were unclassified? Now we know - at least Bill Druz from Civil Service told us - that there are 126 project specialists in your Department.

COMMISSIONER KLEIN: First I want to say that out of those 997, some of them were turnover positions. There is quite a high turnover in State Government. You have to realize the fact that in 20 months we went from using half of our Federal funds of \$44 million to all of our Federal funds of \$88 million which, naturally, created the need for more positions.

SENATOR VREELAND: That created the need for more project specialists, because you were using more Federal funds? Is that what really happened?

COMMISSIONER KLEIN: Well, to tell you the truth, I am not an expert on these personnel matters but it is true that a lot of the things that we do, such as social services planning, setting up projects, etc., would require somebody not on a permanent basis but someone who is a project specialist.

As I understand it, there are certain criteria for filling project specialist slots. I think I have it in this report if you will wait until I turn to it.

But, the fact is, the number of unclassified people in our Department has actually - the percentages - declined in the 20 months I have been there. I mean, we have a far less percentage of unclassified positions than we had 20 months ago.

What is this?

MR. MULCAHY: This is the break-down of the 997.

COMMISSIONER KLEIN: Oh, of the 997, 861 are classified, 52 are unclassified, and there are 84 consultants - per diem consultants. This is a list, by the way, of the Department consultants. This list does not include the--

We have a total number of 221 consultants in the rest of the Department. I can give it to you briefly: 115 physicians, 29 psychologists, 20 psychiatrists, 5 dentists, 6 podiatrists, 4 optometrists, 8 medical technicians, 6 physiotherapists, 1 chiropractor. It might be interesting to note that 2 of them reside in New York and 9 in Pennsylvania and 1 in Delaware. I have it broken down by Division. I would be happy to give that to you.

SENATOR VREELAND: I don't think that the Committee is so much concerned with the fact that in the competitive competing for jobs at State Government level - which, of course, would be Civil Service - people come from New York, they come from Pennsylvania, and when they get into that classification of competition I don't think there is any question but that is perfectly alright; it is the legal way to do it. I think that what we are concerned with is - and, of course, this is as a result of the newspaper articles - that these are unclassified positions and whether or not there are people in New Jersey who could well fill those positions. I think that is the important thing we are concerned with.

I know this because we read it and I happen to know Mr. Schenck - or did know him - when he headed Youth and Family Services, as you knew him, I am sure, in Morris County from the Denville Boys Home. I knew him very well up there. And he was fired, as I understand it - at least I read that - and then he was hired by the Treasurer, Mr. Leone, at more money, evidently, than he was getting.

I don't question that. I think you probably gave a reason. You had your reason for doing that. But Mr. Kagen was brought in, as I understand it, to fill his position. Is that true?

COMMISSIONER KLEIN: Yes. I have testified to that. By the way, Mr. Schenck had the right to title within State Government because he had been in the Civil Service

system before he took this position as Director of Youth and Family Services. So, he could go back to a former title.

SENATOR VREELAND: He could go back to what?

COMMISSIONER KLEIN: To a former title. He retains his tenure rights in the system.

SENATOR VREELAND: Yes, but he was relieved of his duties as head of the Youth and Family Service Division, isn't that true?

COMMISSIONER KLEIN: That's true. We discussed, in the Division, the direction that he thought of going in and I decided that I wanted another Director. I am responsible for what goes on in that Division. I don't think anybody feels that a person in the position of Commissioner should not be able to appoint people that they feel they want to.

SENATOR VREELAND: I agree. I don't think there is any question about that. I don't question that.

COMMISSIONER KLEIN: I don't think I have abused that and that is the point I wanted to make earlier.

SENATOR VREELAND: I think that our question is, was there someone in New Jersey who could have taken over that position? I think that is basically our question.

COMMISSIONER KLEIN: Well, I have no question that perhaps after a long-time search we would have found someone. I can't possibly deny that that is true but I do have to tell you that there aren't too many people in New Jersey that have ever had that size of a responsibility.

If you look at the State Budget and the way the Departments are broken down, you will see that a Division of that magnitude, a very complex Division and one that has to deal with the Federal Government all the time, is not a simple job to run and most of the people-- You know, we have hired people from other Departments of State Government. We have hired quite a few from the Department of Higher Education because it is the only Department that is sort of comparable to ours in its size and complexity. We can't raid them for everybody that they have but we have gotten some very competent people out of that Department.

I must say to you, Mr. Vreeland, that it never occurred to me, two years ago, that that would even be a question because it simply did not exist as a question at that time. It only became a question about two months ago. I would have found nothing wrong with hiring somebody from any State who I felt had the credentials to do the job. I would not have felt that I could not hire somebody from out of State until I had for six months, or seven months, exhausted every possibility in the State. That never was even a consideration in anybody's mind at that time. I don't think it should be a consideration at this time. We are not an island. We are not an insular little country someplace. We are part of the United States. We bring people in to our State. We want people to come into our State. Many times in the past, New Jersey has not provided the educational opportunity for people. We had to import many people for professional and managerial jobs. I am sure that all of our industries in New Jersey recruit from all over the country.

Government is just as important as running a pharmaceutical company. If the Legislature feels that cabinet members and people in departments, etc., should only be selected from people within the State, then they have to enunciate that. I think that would be a mistake. I am sure that the predecessors in my job came from outside the State. I know that was one of the things in Governor Cahill's mind - that they might have to recruit a person for this job from out of State. It is a tough job.

SENATOR VREELAND: I agree. I have no further questions at this time.

SENATOR BEDELL: Senator Davenport?

(no questions)

Senator Hirkala?

SENATOR HIRKALA: Commissioner, when you were about to appoint the Director of the Division of Youth and Family Services, did you advertise for applicants?

COMMISSIONER KLEIN: No.

SENATOR HIRKALA: Did anyone recommend Mr. Kagen to you for this position?

COMMISSIONER KLEIN: Yes. As a matter of fact, Mr. Kagen had come, originally, to apply for a job as Deputy of the Department and I interviewed him for that job.

SENATOR HIRKALA: In your statement you said you had interviewed New Jersey residents for the position. Do you recall how many you interviewed?

COMMISSIONER KLEIN: Not very many because we moved very rapidly. I don't know, perhaps three or four.

SENATOR HIRKALA: Are you satisfied that your Department is doing all it can to insure that Civil Service Rules and Regulations are being complied with and that promotional opportunities for career employees are being followed?

COMMISSIONER KLEIN: Absolutely.

SENATOR HIRKALA: Are there any project specialists on the payroll who do not work full time for the State of New Jersey?

COMMISSIONER KLEIN: Not that I know of, no. Oh, wait a minute, do we have any physicians as project specialists?

MR. MULCAHY: They are listed as consultants.

COMMISSIONER KLEIN: Oh, okay. No, they would be consultants.

SENATOR HIRKALA: In regard to consultants, how many of them work full time; how many are on a part time basis; how many are on a per diem basis?

COMMISSIONER KLEIN: We are going to give you a complete list of every consultant in the Department, what they get paid, how much time they work, and what they do.

SENATOR HIRKALA: That would be very helpful.

Commissioner, the last thing I want to get to is your statement yesterday, in which-- I want to read from the last statement: "For heaven's sake, let's start paying attention to what is important." I believe several members of the committee take that as an implication that you feel the work of this committee is not important and I would like you to respond to that and tell us if that is how you feel.

COMMISSIONER KLEIN: No, I don't feel that the work of the committee is not important. I feel that -- I don't know if I ought to say this because I don't want you to take this wrong. I have been in the Legislature and I know what happens: Somebody, someplace, implies, or says, that there is some kind of a problem or a potentially bad thing going on in the State and we, as Legislators, always felt that we wanted to investigate that, or look into it.

Because of these charges and because of the weight that has been given to them, we have had to take an inordinate amount of time in order to really find out all the basic information that I am trying to make available to you.

It is not easy to put together this kind of information. You have to realize, for instance, that our personnel files are on cards - 20,000 employees. They are not on a computer system in our Department. They may be on a computer system in the Treasury. But if a reporter walks into my office and says, "I want a list of everybody in your Department who lives in New York," there is no way I can get that information except to go through 20,000 files. And in DYFS to give you the information they actually had to go through all of the files of all of their employees. Now, they



don't have 20,000. They have, maybe, 2,000.

With all of the effort that we put into it and all the information that we are making available to you, I don't think that you will find anything in that data that will make you feel as though this needs further attention. I know that you will not find anything in there that is illegal or immoral or anything else.

You may want to address some of the real problems that we have in the personnel practices of the State - and there are some basic problems. Senator Bedell has addressed himself to one of those problems, I think, in one of his bills.

I certainly would be the last to try and blame anybody heading up Civil Service, or the Civil Service Commissioner, or anybody else, for these problems. There are lots of reasons why things move very slowly in government and we are constantly being accused of being, you know, subverted by the bureaucracy; moving too slowly; not being responsive - and it is true. It is true because the system does make it difficult to get things done. You may feel that it is worth it to go through all of that because of the kinds of safeguards that there are in such a system, the kinds of security there are in such a system. But you may also want to feel that it is justified that there should be some flexibility in such a system - that if you have to move fast to get something done, it is right that there are consultant jobs and there are project specialists jobs so that it is possible, sometime within the four years of your term, to be able to leave office and know that you got something done. I think that is basically a very serious thing and something that the committee could very well spend a lot of time on, and very productively.

I do think that being swept up in the whole question of whether 16 people in a Department came from New York, or whether I hired one Director of one Division, out of all of the Divisions that I run, who happens to have worked in New York because I thought he had the experience that was needed in that job-- that, I think, is not the best use of the legislator's time. That may be a very personal and biased view, but I don't think it is going to be very productive and I think that is what I meant.

I am concerned, really, about - you know - how the Department is going to continue next year under the budget crises we have. That's the kind of thing I think is really a problem.

SENATOR HIRKALA: In any event, Commissioner, don't you feel that because of the resultant publicity and charges and counter charges and the formation of this Committee that, perhaps, a full airing would be beneficial to the taxpayers and perhaps some of their fears may be allayed? Or, perhaps their fears may be confirmed in the event the committee were to find some kind of wrongdoing or that the hiring practices may not be what we consider conducive to good government. Don't you feel that might be the case?

COMMISSIONER KLEIN: Of course, Senator Hirkala, that is why I was very anxious to appear before the committee; that's why I was sorry I did not understand I was supposed to appear today; and that is why I was anxious to go to the press because I don't think it is good to have the public out there with these suspicions and these thoughts, unless they can be verified.

Now, I don't feel, in our research - I just hate to think of what it costs to do that research - that there is anything here that the public has to feel dissatisfied about. The committee may draw a different conclusion when you review all the material but I don't think that you will.

SENATOR HIRKALA: I have no further questions. Thank you.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: Commissioner, in this breakdown of classified and unclassified, November 11, 1975, you have classified, 18,443. How many of those are provisionals? How many people are in the provisional category?

MR. MULCAHY: Almost 4,000.

SENATOR FAY: Now, in their testimony last week, the Office of Fiscal Affairs made a very strong statement that Title II, which governs Civil Service concerning provisional employees, is not being complied with. Can you state, for the record, that your 4,000 provisionals are complying with Title II?

COMMISSIONER KLEIN: I don't know what Title II is. Excuse me a minute; I have somebody here from our Personnel Department. Maybe they can help.

Is Title II the one that says a provisional should only be provisional for 4 to 6 months?

SENATOR FAY: That's right.

COMMISSIONER KLEIN: Yes, because of the delays in giving the examinations. Sometimes it can be 2 years. They are not all in compliance with that.

SENATOR FAY: So, therefore, you have provisionals for 2 years, when they are supposed to be for 4 months?

COMMISSIONER KLEIN: They may be longer. Unless the test is given, there is nothing you can do about it, unless you want to keep turning over your provisionals, which would seem to me pretty wasteful.

SENATOR FAY: The law says that no person shall receive more than one provisional appointment, or serve more than four months as a provisional appointee in any fiscal year. How do we bring the law and this provision and the fact that these people are -- How do you justify this? How does Civil Service justify it?

COMMISSIONER KLEIN: I can't answer that because we can't give the tests. Only Civil Service can do that. I would suspect, Senator - I know this has been going on for many years - that like every other department of government, including ours, which is given very large responsibilities, they probably do not have the personnel to do the job that they are required to do and so they fall behind.

SENATOR FAY: All right. Now, here is the very point that, to me, is making this committee a very valid one: Here we are talking about avoiding the law and ignoring the law. I don't care whose fault it is. If it is Civil Service, then they have to shape up. If it is the Budget Bureau or if it is the Commissioners who have to lean on - and the Legislators - Civil Service-- Here are 4,000 people who are in jobs for years who haven't taken the test and who we aren't sure qualify as far as a written or an oral test is concerned. Here are 4,000 out of 18,000.

COMMISSIONER KLEIN: I really don't know - I just really don't know what a Department head could do about that. Let me give you an example. Recently, we had 5 pharmacists in the Division Medicaid who all were fully credentialed. You don't get into a provisional job even without having the credentials to take the test, so we know they have that. They have been in those jobs for numbers of years, since Medicaid started, and there had never been a test given. A test was given and all 5 of them lost their jobs, not because they didn't do well on the test - they did well on the test - but they were bounced by people who had preferential. It is kind of too bad in a way to have people in a job for a long period of time - and doing a good job - and then the test comes up. It would be much better if the test were given after four months. We would prefer it that way. But it simply doesn't happen and I don't know what a department head can do about that. I don't know if the Legislature can do anything about it because I am sure that it is just that there is not the time and manpower to do it.

SENATOR FAY: I think this is a major point that, most certainly, the Governor and the Legislature are going to have to pursue. We find 4,000 in your Department alone. Last week we were told that we have 58,000 employees and so we find

4,000 in your Department alone - and yours is just the first Department we are hearing from. This is the first of a few meetings with your Department. When we start going through Community Affairs and Transportation, and every other major Department, to me we might find a shockingly high number of people who are in positions that have not been given tests. For their safety alone - if not those 4,000 - these people who should have Civil Service protection are not receiving it.

COMMISSIONER KLEIN: Well, when you look at the 4,000 in relation to-- You won't find as many in other Departments because we have 20,000 of the 58,000 employees. I'm sure all of those 4,000 have not been in those slots for two years and I don't know what the average is.

SENATOR FAY: Are there people there longer than two years?

COMMISSIONER KLEIN: Well, I mentioned the pharmacists. I know they have been in more than two years.

SENATOR FAY: For example, now two years -- Mr. Druz, by the way, has a standing invitation to come back, as everyone that comes before this committee does. I would like to ask, after we get a breakdown of these 4,000 people from your personnel people, how many people have been in that job category for two years or longer and why haven't they posted a test for two years? I can see four months as a very short period of time. The law should be amended on the four months. But to say that you cannot post a test and give the test for two years is, to me, stretching it.

COMMISSIONER KLEIN: Well, I can't answer, Senator. That would be a question for Mr. Druz. There are an enormous number of titles in New Jersey government. So, I really don't know. I assume that there are some titles that don't have too many jobs and they don't give those tests as frequently.

SENATOR FAY: What this committee requests, through the Chairman, is a breakdown of these 4,000 people, as to job category and as to when the last time the test was posted.

COMMISSIONER KLEIN: Could I just say one thing in response? I would like to add this because I think that, from the point of view of having seen the results of some of these things, where people have been in jobs and they haven't been classified for a long time and then they take the test and for one reason or another they don't get the job, this is a very tragic thing. I think the committee should also consider the whole question of whether the testing, by itself - especially in terms of promotion - is the right way to go.

I have had an experience, for instance, with one of our best attendants - not an attendant, she was a cottage officer. She was a terrific woman. She just loved working with the kids. She was down at Menlo Park in a provisional job for a long period time. They gave the test. She was unable to pass the test. She took the test three times. She was unable to pass it. She had to give up that job and become a housekeeper, instead of being able to work with the kids. When I saw her she was heartbroken. I wrote to Civil Service and said, "There is something wrong with a test that eliminates one of the best people we have from the job that she is doing. Is it possible to give her an oral test, or do something so that she doesn't get ruled out because she can't take a written test." I think that is something that should be considered also.

SENATOR FAY: I am not claiming that Civil Service, as we know it in New Jersey, is the millennia and I am sure that from this committee is going to come many major recommendations to change Civil Service, as it is, to what it should be.

But as it stands now, it is the law. It is the only game in town and, to me, we have to be consistent.

COMMISSIONER KLEIN: I think that I should also put in the record that the 4,000 also includes the unclassified in our Department. Out of the 4,000 there are 1,270 unclassified.

SENATOR DAVENPORT: One question, Commissioner. Of these 4,000 provisionals, how many already have permanent status in your Department and are provisionals through promotion? I think this is important. I don't think that all 4,000 are all outsiders.

COMMISSIONER KLEIN: We don't know but we guess about 500.

SENATOR DAVENPORT: 500?

COMMISSIONER KLEIN: Yes, because if they don't get the promotion after taking the test, then they go back to their former position.

SENATOR FAY: Of the 1,270 unclassified, do you have that broken down as to project specialists; how long they have been specializing in that project...?

COMMISSIONER KLEIN: We have given you all that.

SENATOR FAY: The consultants?

COMMISSIONER KLEIN: Yes.

SENATOR FAY: The per diem?

COMMISSIONER KLEIN: Yes.

SENATOR FAY: How long they have been consultants?

COMMISSIONER KLEIN: Right.

SENATOR FAY: Now, last week, also, Fiscal Affairs made an issue about the unclassified. Mr. Silliphant, for the record, made the statement that of the 54 categories that they had studied as to project specialists, 50 of those didn't meet the legal criteria of the unclassified in the project specialist category; that 50 of the 54 categories that he had studied, and his staff had studied - project specialists - did not meet the legal requirements.

COMMISSIONER KLEIN: Was that in our Department?

SENATOR FAY: No, he said it was for the State.

COMMISSIONER KLEIN: I don't know. I just know that we have to have Civil Service approval before we can put anybody on. So, I would have to assume...

SENATOR FAY: They were criticizing Civil Service for writing job titles that did not meet the legal requirements.

So, Mr. Silliphant has not contacted you or your staff, personally, to tell you that some of the job descriptions and job titles are not meeting the legal criteria?

COMMISSIONER KLEIN: No.

SENATOR FAY: Another major recommendation that came from last week's hearing that we were very glad to hear is, the next budget time, people that you have on your budget-- For example, I have noticed that you have two people on your budget that are assigned to the Governor's office, project specialists--

COMMISSIONER KLEIN: Excuse me. I think one of those people is now on my staff; he is head of social service planning - Lorenzo Little.

SENATOR FAY: He was a project specialist for \$14,500 and this document that went to the Appropriations Committee said, "Assigned to the Governor's office."

COMMISSIONER KLEIN: He actually was our liaison with the Governor's office and with the Washington office on this whole question of social services.

SENATOR FAY: And what is his title now?

COMMISSIONER KLEIN: He is now the Director of our Title 20 Planning Committee.

SENATOR FAY: He is no longer a project specialist?

COMMISSIONER KLEIN: Yes, he would be a project specialist but I think the papers have been put in to classify the job.

SENATOR FAY: He is still under the category of project specialist?

COMMISSIONER KLEIN: Yes, I think he would be. You understand there is a Federal requirement that we have to prepare, every year, a plan for the use of social services money, and these are Federally-funded slots.

SENATOR FAY: The point that I was making is, it is improper budget presentation to have people on your budget when they are actually working for some other Department. And the Budget Director and the Director of the Office of Fiscal Affairs both agree that next year's budget would not be written in such a manner so that when we look at the I & A budget, we can accept all the names that are down there as working for your Department and not as being assigned, permanently, to some other area.

There was a criticism of every Governor for the last 10; this is the way they have been presenting the Executive Budget. It was not valid and it was not proper and both the Budget Director and OFA agreed to this. For example, you have a Principal Clerk Stenographer at \$7,925 - Carol Foggia - and under her name is, "Assigned to Governor's office."

COMMISSIONER KLEIN: She was his secretary - Little's secretary.

SENATOR BEDELL: Mr. Zolkin.

MR. ZOLKIN: You refer to a definition given of a project specialist as an individual who has a position totally funded either from the Federal Government or from other source of funds and that generally is for a specified period of time. Now, the gentleman you just referred to, you indicated was a project specialist and now you are looking to have the position classified.

COMMISSIONER KLEIN: I was just corrected on that. I understand that he would not be classified.

I am not sure that that definition as funded by outside funds is correct. I have here, somewhere, a definition, if I can find it. April 6th, New Jersey Department of Civil Service, Division of Classification and Compensation, Salary Administration Memorandum Number 45-73, Supplement 1: "The Civil Service Commission at its meeting of April 5, 1973 approved the following change in the compensation plan, June 24, 1972, effective April 14, 1973. The following titles provide classifications for positions where all of the following criteria are met: A full time position is needed for a project that is totally funded by Federal or other grant monies; the project has a clearly defined objective and anticipated duration; it is otherwise not feasible to use a competitive title" - that is a rather broad one. "Such positions and appointments thereto may be approved for one year, or less; renewal or extension may be granted on the basis of justification acceptable to the Department of Civil Service. These titles provide for and distinguish between the positions that involve project development, management, implementation, or evaluation, and the positions that involve technical or clerical support. The salary rates will be determined as provided by regulation."

It then has additional titles, and this was in 1973 - "N98 60005 U, Project Specialist; N98 60004 U, Project Support Specialist. These titles shall not be used as substitutes for the title of Consultant or for Consultant Services."

Then we have a second one on April 18, 1974: "The Civil Service Commission at its meeting of April 16, 1974 approved the following amendment for the use of the titles, Project Specialist and Project Support Specialist: Delete 'totally federally funded', Substitute, 'regardless of source of funding'." These titles may be used for appropriate positions. So, the change in 1974 deleted the statement in '73 that it had to be totally funded by Federal or other grants.

MR. ZOLKIN: Commissioner, the testimony, I believe, given at last week's session was that this still implied that the money would not be coming from the general State Treasury; it would be coming from a source other than the Treasury - from something akin



to the Ford Foundation grant, or something along that line.

COMMISSIONER KLEIN: Well, all I can say is that on April 16, 1974, the memorandum says, "delete 'totally Federally funded'; substitute 'regardless of source of funds'." So, it would seem as though, in 1974, the Civil Service Commission expanded that title to not be limited by the source of funds.

It says, "These titles may be used to classify positions on interim basis where no appropriate titles exist. Each such action should be approved, pending establishment of an appropriate title for a period not exceeding six months." That is what is said on April 16, 1974.

MR. ZOLKIN: The Department of Institutions and Agencies, therefore, is using the category of project specialist to fill a slot, regardless of what the purpose is, while you are getting a classification from Civil Service and Budget?

COMMISSIONER KLEIN: We were told that that was the only way we could do it. For instance, a bill was passed establishing two Deputies in my Department. While waiting for Civil Service to establish those titles in my Department - which took a period of some months - our Deputies were called project specialists. It took seven months before the titles were given to us, although the law had passed.

MR. ZOLKIN: Who told you to use the title?

COMMISSIONER KLEIN: Classification. We had to submit these things to Civil Service. There was nothing unusual about it. It says right here in this order: "These titles may be used to classify positions on an interim basis where no appropriate title exists. Each such action would be approved pending establishment of an appropriate title, for a period not exceeding six months." In the case of the Deputies it took seven months. They are clearly the regulations of Civil Service.

SENATOR BEDELL: Are there any further questions?

SENATOR FAY: Commissioner, do you keep a separate record on how many people you sent to the salary adjustment committee in the last two years? Do you keep a separate record of how many names have been forwarded to the salary adjustment committee for the last two years?

COMMISSIONER KLEIN: We can go through our requests and give you that.

SENATOR FAY: We took a great deal of testimony last week on the salary adjustment committee. Again, you are the first Commissioner here. We would want this from every Commissioner that comes before us - the names, the salaries, the suggested raise, and whether it was agreed to or not by the salary adjustment committee.

COMMISSIONER KLEIN: You may certainly have that. We will have to put it together. Mr. Kagen can testify to that on DYFS.

SENATOR BEDELL: Mrs. Klein, I want to address myself to something that you originally stated and that is, of course, that the attention given to the report by the media focused an unfavorable light on your Department and you wanted to respond. You thought it was somewhat improper for them to do so, actually. That may well be.

I want to assure you that this Committee was formed to look into this to find if there is any basis for this. In fact, I think we have to do that to respond to the people because, as you are well aware, in a Democracy, government is always suspect, particularly ours. Colonial heritage be as it may, there is a public fear of centralism and that is essentially part of our system. We are also concerned about the fact that probably today the confidence in government is at its lowest ebb, so, therefore, we want to respond to allay any fears that may have been raised by the media. This Committee is neither conducting a witch-hunt nor a whitewash; we are going to go right down the middle and call the shots as we see them.

Our questions at times may seem to have as a motivation some consistency with the allegations in the paper. I only mention that because that is not our intention. We may have to do that at times in the framing of our questions to get the facts we may require.

I have some questions which may, in part, be repetitive. I was out of the room for a brief period of time, so I hope you will bear with me on it.

COMMISSIONER KLEIN: Senator, I would like to say that I really don't think there is anything improper in the paper reporting anything that it wants to report. I have always been a strong advocate of a free press and I think that I am also a strong advocate of Harry Truman's saying, "If you can't stand the heat, get out of the kitchen." I happen to be, I think, in one of the hottest kitchens in the country. I don't want anybody to think that I, in any way, am saying that the press is improper. I think that there was some wrong emphasis in the way this particular story was handled. I have my chance to straighten it out; I don't know if I can but I have my chance to do so. By and large, I think that the press has handled it very responsibly.

SENATOR BEDELL: You stated earlier that some 16 out of approximately 1,000 persons in the unclassified section were actually from New York. Did you mean New York City when you said that?

COMMISSIONER KLEIN: They had had some previous experience in New York City government.

SENATOR BEDELL: When we are talking about 1,000, we are also talking about unclassified positions in the lower echelon, lower salary, category, rather than jobs that would be...

COMMISSIONER KLEIN: The full range of anybody that was put into a slot in that Division during the past 20 months.

SENATOR BEDELL: That would be a total of everyone in unclassified?

COMMISSIONER KLEIN: Yes. Some of them are classified provisionals - 861 classified; 52 non-classified; and 84 consultants.

SENATOR BEDELL: Are these provisionals to classified competitive positions we are talking about?

COMMISSIONER KLEIN: Yes.

SENATOR BEDELL: I believe under the law, under Title II, that a person can only receive one appointment during a fiscal year for a period of no longer than four months in that capacity. Do you have anybody in that capacity who is now serving longer than four months?

COMMISSIONER KLEIN: Which capacity is that?

SENATOR BEDELL: In the capacity of a non-classified person, or a provisional, serving in a competitive classified position?

COMMISSIONER KLEIN: Yes, I would think so. I have to go back to those figures that I had before: Of the 16 people, 3 worked as consultants and concluded their assignments and were terminated. I think Mr. Kagen can testify more completely on this but it is my understanding that some of them only worked a couple of days on a special project - to look at a contract, etc.

SENATOR BEDELL: I am merely addressing myself, at this point, to a point in Law, under Title II - "Provisional appointments that are made to classified, competitive positions have a statutory limitation for one such appointment per individual fiscal year, with a maximum duration of four months," My question is, to your knowledge do you have anyone serving in that capacity for longer than four months?

COMMISSIONER KLEIN: I don't have knowledge of that, but from the information that

I have...

SENATOR BEDELL: We can get that information?

COMMISSIONER KLEIN: You will get that information. I am sure that there are.

SENATOR BEDELL: Okay.

COMMISSIONER KLEIN: I have already explained that, despite what Chapter 11 says, in fact you do not get your titles established that fast.

SENATOR BEDELL: You mentioned the figure eleven before. I think we are talking about all the unclassified employees. If we were to talk about classified employees, or in the higher ranges of salary compensation - let's say, for want of a better figure, \$10,000 or \$12,000 a year or above - how would that ratio diminish vis-a-vis the total number in that capacity -- not all unclassified, but people who have been making substantial amounts of money?

COMMISSIONER KLEIN: Are you talking about the Division or the Department?

SENATOR BEDELL: I am talking about the original statement that was made - you have 16 out of approximately 1,000.

COMMISSIONER KLEIN: Do you have a breakdown on that? I saw it some place.

SENATOR BEDELL: We can get the figures.

COMMISSIONER KLEIN: We have it in that report.

MR. MULCAHY: 16 out of 132.

SENATOR BEDELL: 16 out of 132 changes the ratio a little bit.

Of the people you have in unclassified - you mentioned New York City, or New York State - were all of the 16 members of the Lindsay Administration? If not, how many were?

COMMISSIONER KLEIN: Well, there was that one that worked in 1968. Was that the Lindsay Administration, or not? I guess that was the Lindsay Republican Administration.

SENATOR BEDELL: This is a bipartisan committee here.

COMMISSIONER KLEIN: If they worked in New York any time in the last 8 years they would have - or the last 10 years - been in the Lindsay Administration, yes.

SENATOR BEDELL: I am sure you can come up with the figures. I am not trying to pin you down.

COMMISSIONER KLEIN: I think they are in that report.

SENATOR BEDELL: Of the approximately 132 we are talking about, how many are from out of the State, other than New York? Is that in the report too?

COMMISSIONER KLEIN: Yes.

SENATOR BEDELL: You said, originally, that you have less persons in the unclassified category than you did 20 months ago.

COMMISSIONER KLEIN: Yes.

SENATOR BEDELL: Would part of the reason be that some of those persons that were unclassified have become classified since that time?

COMMISSIONER KLEIN: Yes. I will give you the figures on that. In January of 1974 - January 22, 1974 - total employees were 20,069; unclassified, 1,453; classified, 18,616; total employees, November '75, 19,713; unclassified, 1,270; classified, 18,443. Unclassified decreased by 198, or 12.6% decrease. Classified decreased by 73, or 1%.

SENATOR BEDELL: All right. Those that were hired unclassified, provisionally, that have since become permanent, let's say, I would assume they became permanent as a result of the competitive test, or promotional test. Can we be made aware of those who received promotional tests where the examination was waived, where the promotion was made just by executive action of the Civil Service Department?

COMMISSIONER KLEIN: We can get that.

SENATOR BEDELL: Fine. Thank you.

COMMISSIONER KLEIN: We would have to get that from Civil Service.

SENATOR BEDELL: Fine. But the figures are available.

COMMISSIONER KLEIN: Yes.

SENATOR BEDELL: You said before, Ann, that you don't particularly hire people; that is largely the responsibility of the department heads.

COMMISSIONER KLEIN: Completely.

SENATOR BEDELL: Is it also the responsibility of the department head when a person's name appears before the Salary Adjustment Committee? Do they justify whether they come in and make the recommendations for the raises or do you do that, within your Department?

COMMISSIONER KLEIN: Well, I think we forward them. They have to give us the justification.

SENATOR BEDELL: In a case where someone's name appears before the Salary Adjustment Committee and the increase is granted and made retroactive back to a certain period of time - has that happened in your Department?

COMMISSIONER KLEIN: It is my understanding, Senator, that -- and I may be wrong on this -- when you hire somebody in a position where there is a range, that even if they are qualified for a higher range, you have to hire them at the bottom range and then go in for an adjustment, so that if you get somebody whose experience entitles them to a higher step on the range, you would still have to put them in at the first range and then go before the adjustment committee to justify the higher range. So I am sure this happens all the time when people are recruited. They are recruited at a certain salary, which is commensurate with what they should get in terms of their experience, and you then have to go before the adjustment committee to get that.

SENATOR BEDELL: Is there a salary range established for all unclassified employees?

COMMISSIONER KLEIN: There are ranges, except for consultants and project specialists - which are single rates.

SENATOR BEDELL: When someone ---

COMMISSIONER KLEIN: And the commissioner.

SENATOR BEDELL: All right. When someone comes before the Committee and is granted a wage increase that is made retroactive, back to a particular time, is it the case, really, that they were getting that money, that increase, at the time of the retroactivity or is the retroactivity kind of a justifying device to make it retroactive to a period in time when he actually in fact was getting that increase?

COMMISSIONER KLEIN: I don't know, but I don't think they could get paid that money until they were given the increase. They may have been hired with the understanding they would get a certain rate. They would not get that rate until the adjustment was made.

SENATOR BEDELL: I am not trying to put you on the spot again, but to your knowledge, Ann, that has not happened. Is that what you are saying?

COMMISSIONER KLEIN: That they would be getting it before it was adjusted?

SENATOR BEDELL: Before it went through.

COMMISSIONER KLEIN: Oh, no, not to my knowledge, no.

SENATOR BEDELL: Okay, fine. I have one final question, and this one you do not have to answer, as far as I am concerned. It is more conjecture than anything else. Of course, we are all impressed with the size of your department and the responsibilities entailed, and I did take a deep breath when I saw your suggested budget for fiscal '76, and since the department is so large and appears to be growing with the responsibilities placed upon it, do you think your department could function more properly if it were divided into two

departments, or you think it can continue under one umbrella at its present rate of growth?

COMMISSIONER KLEIN: I think that after you have examined all of the departments you may have some ideas yourself as to how well we function with the size that we have. We presently have some planners doing a study of corrections in New Jersey, and I think that we may have some recommendations in terms of perhaps the Division of Corrections if in fact it became a broader -- in other words, if somehow we established a correctional system that began at the county level with the jails and probation and so forth and it was a continuous system, then there might be some recommendations coming out of that Committee in terms of it either being a separate department or connected with the Department of Law and Public Safety or something like that.

It would be, I think, the single area in which I would have some reservations about its proper place in the Department, especially if - as I would like to see - the youth function was not necessarily a part of corrections. But all of this is real speculation. We, as you know, when I first came in, examined the whole question of separation. There were suggestions, for instance, that you separate the agencies from the institutions. I happen to think that would be a very bad thing to do, especially when you are trying to get a continuum of services from the institution to the community and get the agencies and the institutions working together.

I have found a lot of advantages to the fact that it is one agency, in terms of, first of all, for instance, being able to get all these social services monies out into all these various divisions that are part of the department; in being able to use resources within one division to satisfy a need in another division. As an example, let's take the Commission for the Blind. All these years the Commission for the Blind has never been considered to be responsible for any blind people that were in institutions. I was quite surprised when I found that out, but each division was working so separately that they didn't cross-fertilize or bring services into each other.

Now, at this point we have launched an investigation, and we have found that there are about 150 blind people in our mental hospitals, none of whom have ever gotten any kind of training in order to be self-sufficient. Now the Blind Commission is going in there and is evaluating these patients and setting up some programs so they can learn to get around and do things for themselves, which they just have not had the opportunity to do because they were in the institutions. They were not using the services.

I think that the Department as a human resources department, if properly applied and properly coordinated, can in fact serve people much better as a single department. I also think that I don't exactly know what you would gain when you would -- for instance, any one of my divisions is big enough to be a department, if you went by size. That would mean that instead of a commissioner being responsible for the budgets and planning and coordination of these departments, they would all be reporting directly to the Governor. I think that would be an even worse situation.

I don't think you can judge something accurately just by its size or by the size of the budget. A good portion of our budget is in direct aid either through the Medicaid Program or the Welfare Program. Those are the largest segments of our budget. It is not just a -- I don't think you can judge the complexity of it by its size. If you did, then I suppose you would have to say that you shouldn't have a state, you should have twenty-one counties or maybe five hundred and thirty-nine municipalities, because these are all very large administrative bodies.

I don't think that the Department has ever had in any way the kind of managerial staffing that it should have had. I think this Legislature has done a great deal to



move in that direction by giving us the two deputies, and by allowing us to set up budget and planning functions and to centralize some of the personnel and budget functions that were disseminated through the divisions. I'm not prepared to give you a final and definitive answer. I think we have made a lot of progress in moving the Department, and I hope that we will find that it functions very well as a large department. It can always be broken up, but usually people look for those kind of structural solutions and in the end you end up with another set of problems.

I certainly am not prepared to say that this Department cannot function as a department. Things are very interrelated. It is just a question of getting our data processing done for all of the patients and the people in the schools for the retarded and those on welfare -- I mean there can be many benefits from having these things coordinated. But mostly they haven't been done in the past.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: Mr. Druz last week spoke about the movement towards recruiting and manpower training. I would like to strongly recommend this to you and every other Commissioner and Division Head and Department Head. I for one was shocked to hear that we don't have that many qualified people in the State for some of these positions. I am not a chauvenist, as far as the hiring is concerned. If a person is from New York or Alabama or from anywhere else, and they are head and shoulders over the applicant from New Jersey, so be it. But I also know our unemployment rate is almost up to 14% in this State, and I just wouldn't be that casual about saying there is just no one that qualified unless there was a strong movement or effort for recruitment. There should be some obligation by us as well as you toward manpower and womanpower training within Civil Service and within the provisional and classified and unclassified. So, if that is the case, if we don't have the qualified people, so be it. If we don't look, then it is a shame on us.

I for one rarely see advertisements in the major New Jersey papers for positions. I am not only talking about Youth and Family Services. This Committee is going to look at every department and every division in the State very closely. Mr. Druz was the first one to admit that we have done little, if anything, in the area of recruiting in this state and very little in the area of manpower training.

With the budget crunch, we are also talking about laying off. So, here we are laying off in some cases civil servants and career people and hiring in the same week or the same month project specialists and consultants. If this is the fact of the matter, if there isn't a contradiction here, again so be it. But if there is a contradiction, we are laying off career people and in the next week hiring someone just as qualified, and that career person might have kept his job, I think that is a matter of shame and a matter for apology from us as Legislators and from you as the full-time bureaucrats.

I am not trying to simplify it at all. I think this is a study that is long overdue, and I think it is not just a matter of sixteen people coming here from New York or Massachusetts or anywhere else. I think we are going into a completely different phase of government, and not only the people, but the Legislators don't know what they are talking about, even after they go through the whole Appropriations Committee process. We still don't know what is being talked about exactly as far as firing and hiring and the budget.

SENATOR BEDELL: Mr. Zolkin.

MR. ZOLKIN: Mrs. Klein, getting back to the question I asked before, at last week's session the question was asked of Mr. Druz by Senator Fay, when referring to the project specialists, "Q Is it a prerequisite to the job that it have federal or other grant

monies? You cannot be a project specialist unless there is a federal grant and/or other monies?" Mr. Druz answered, "Well, yes could be federal or, as I said, another source of funding. I think I did say that. Yes, this is our requisite. Now, that kind of checking would be done through the fiscal."

Senator Fay then asked, "So we could assume there are no project specialists on the State payroll who are not under a federal and/or other grant?" Mr. Druz answered, "I can assume that." And then he said, "I think you can ask Mr. Hofgesang that."

Later on that morning I asked Mr. Hofgesang that, and in this instance this was my question to him, "A project specialist generally is or is supposed to be employed in a situation where it is funded by either the federal government or an outside source; is that correct?" Mr. Hofgesang answered, "Yes."

And then I said, "Is there any such restriction on consultants?" And he said, "No. It could be from either State or federal monies." But on the question of project specialists ---

COMMISSIONER KLEIN: That seems very contrary to this memo that I read before, which said -- this one, April 18, 1974, Supplement 1 -- "delete totally federally funded; substitute, regardless of source of funding." Now, "regardless of source of funding" would seem to me to mean any source of funding. I don't know. It is a salary administration memo, and I don't know of anything that superseded it.

MR. ZOLKIN: Then there is a contradiction as far as that goes?

COMMISSIONER KLEIN: I don't want to contradict what they said, because they may have some information I don't have. The only information I have is based on this salary administration memorandum which we are following in our department.

MR. ZOLKIN: I'm not trying to pin anybody down, either you or Mr. Hofgesang or Mr. Druz, but the question I have is, in I & A there are people employed as project specialists with a source of funding as the general state payroll account; is that correct?

COMMISSIONER KLEIN: Yes.

MR. ZOLKIN: Do you know how many there have been or there are?

COMMISSIONER KLEIN: Well, of course, there are not that many purely federally funded things. Almost everything would be at least 75%-25%. On these charts that we gave you we identify the source of funding for every project specialist, department-wide. It says, "Federally funded position, yes and no." For instance, you will find a classification officer at the Trenton Prison not federally funded. He is in a project specialist slot.

MR. ZOLKIN: Totally state funded?

COMMISSIONER KLEIN: That would be a state funded position, yes.

MR. ZOLKIN: Can we have a copy of that?

COMMISSIONER KLEIN: Yes.

MR. ZOLKIN: Now, is there one for a project specialist in the Division of Youth and Family Services?

MR. MULCAHY: Yes. That is what I wanted to make sure you understood. We have given you the original report which you have had before today on the Division of Youth and Family Service, which contains in there charts and breakdowns for both the project specialists and the consultants.

MR. ZOLKIN: Right.

MR. MULCAHY: Today we are giving you all of the remaining divisions in the department both as to project specialists, per diem consultants, and classified and unclassified positions; we have identified the unclassified positions throughout, so

that if Jim has any questions, he can call me. Our people are available. We have identified anybody that we think you would ask for. It is all there in an open book. We have nothing to hide.

SENATOR BEDELL: Fine. If there are no further questions by the Committee at this time, I want to thank you, Mrs. Klein, for giving us the benefit of your time. I know that your time is extremely valuable.

COMMISSIONER KLEIN: Senator Bedell, we have identified some problems that we think exist in the whole Civil Service set up, and we would like to offer them to you for your consideration.

SENATOR BEDELL: That would be very advantageous. We would appreciate that. Thank you. I will recess the hearing at this time. We will reconvene at two o'clock.

(Whereupon there was a luncheon recess taken.)



AFTERNOON SESSION

SENATOR BEDELL: This public hearing of the Special Senate Committee on State Hiring Practices is again in session. We would like to call upon James G. Kagen, Director, Division of Youth and Family Services, Department of Institutions and Agencies.

J A M E S G. K A G E N: Thank you, sir. I would like to say that I welcome the opportunity to come before the Committee to set the record straight on the hiring practices and the responsibilities of the Division. If I can, I would like to take a few minutes to tell you a little bit about some of the things we have done and review the hiring practices as we have presented them to you in our report.

In the past two years, the Division of Youth and Family Services has grown immensely, as Commissioner Klein mentioned this morning. In January of 1973, approximately seven months after its creation, the Division served some 56,200 children with a budget of \$52 million. Today, basically three years later, we are now serving directly or through contract programs nearly 200,000 children, and have added the responsibility for the County Welfare Board Social Service Program, which services approximately 100,000 additional individuals each month. Our budget now has grown to \$142 million with basically an increase of only \$6 million in State funds. The large majority of that increase has come through the seeking and finding of local, county, and mostly federal dollars.

This growth in case load is approximately 360% over the past twenty-four months, which is a phenomenal rate of growth. In the area of day care, we have gone from serving 20,000 children to 34,000, an increase of 42%. The case load in severely abused and neglected children has doubled each year since the end of 1973 and has placed an incredible strain on our district office staff to keep pace with the number of severely battered, abused, and murdered children who come under our responsibility.

The Division staff throughout that period has only increased 23%, and its budget 71% - the State budget - so that the resources of the Division, both on the service side and the management side, have not kept pace with the growth and responsibility. Nevertheless, we have been able to attract \$10 million in funds from private donors, county and local governments throughout the State, and over \$40 million in federal monies, previously available to the State of New Jersey, but never spent in the social service area. And in so doing, we have provided in the Division of Youth and Family Services 922 additional staff positions that are fillable in that same period of time, and 3,073 jobs in New Jersey in day care and other social service programs. So the aggressive finding of these dollars and provision of desperately needed social services to protect children, the elderly, and to help people in becoming self-sufficient has also resulted in a growth of nearly 4,000 jobs within the State of New Jersey.

Throughout this period, and since I came to work in the Division, I had a second mandate from Commissioner Klein, and that was reviewing and improving the management and fiscal systems that were at work in the Division. Within a month of coming I asked Ernst and Ernst, a private accounting firm, to do an audit -- to do a report, rather, on the Division's institutional and family foster care payment system, which is a system that serves 12,000 children and pays out nearly \$30 million each year primarily in State funds. A month later I called for a second report covering the day care and institutional foster care programs, and initiated a request with Budget and the Office of Fiscal Affairs for an audit of our now \$35 million day care program, which goes over 250 agencies, and which had not been audited in a comprehensive way since its inception five years ago. Since that time we have received -- a bid has been let for an



emergency audit program, which will permit us to do up to forty of these centers before the comprehensive program can take full effect. We have put in place our own internal auditing force since August of 1974 and they now have 10 people. We are going through all the impressed funds and cash accounts of the Division through which approximately \$140,000 a month is spent.

With respect to the contracts themselves, within four months of my arrival, we designed a new performance contract system, which would hold providers to a real deal. It would hold providers to a give and take contract that would call for head counts of people served, actual expenditures, and a number of other performance items. These contracts were put in place in the early months of 1975, covering our inter-departmental arrangements, \$10 million in purchase of service contracts, and with our own I & A Divisions, covering another \$6 million worth of new social service programs. All day care agencies were notified two months ago that we would be converting this \$35 million contract program on to a performance basis, and we expect to sign those contracts as they come up beginning in January of 1976. I also found an absence of thorough expenditure review and program analysis for these contract agencies, an absence of fiscal audits for day care and residential services and an absence of fiscal and technical assistance to these usually small community-based facilities, to whom we are now paying in the aggregate \$80 million.

My check of the administration and operation of the foster care program found virtually no control over payments, lack of formal independent audit functions to determine the validity of the payments, numerous opportunities for fraud, inadequate, non-uniform systems and procedures which cause hardships for our foster parents who give so much to the children in this State, and a lack of knowledge of the Division's cash needs from month to month.

All of these problems, and those remaining, some of which we have only begun to address, have existed for a great number of years in our previously under-funded, very small bureau of Children's Services. I think we have managed to identify a number of these problems. I think we have set up plans and indeed already accomplished some of the changes that need to be made.

I would like to turn now, if I might, to the hiring practices of the Division, and give you an outline of what we have done in some of these areas. With respect to project specialists, I do believe it was discussed this morning what the Department's view is of what Civil Service Regulations are governing the hiring of project specialists. The Division operates under those guidelines as Commissioner Klein outlined them. There are 2,517 employees right now in the Division of Youth and Family Services. Twenty-two of these employees are project specialists, roughly eight-tenths of one percent of the staff. Since January, 1974, there has been a 21% decrease in Division project specialists. Six project specialist positions have been abolished, and the Division has transferred seventeen project specialists to classified titles and is converting its remaining vacancies into classified titles.

The Division might have converted some of these titles more quickly, and I think we can be justly accused for not moving more quickly on that front. With respect to the Department, I think it was mentioned earlier, the number of project specialists in the Department has declined from one hundred and thirty-six in January, 1975, to one hundred and thirteen as of this month. I believe the Division's use of project specialists has been sparing and prudent in every respect, and it has been used when an appropriate title is not readily available in times where constraints require rapid

recruitment prior to the establishment of a former classified title, as well as when a position is needed for a time limited program, and the use of a permanent position would be fiscally and managerially imprudent.

With respect to per diem consultants, since January of 1974 the Division has employed eighty-nine per diem consultants. Their median duration of service was thirty-seven days distributed over an average of five months. The average per diem payment was \$72 and the average payment per consultant was \$2,750. Services rendered by these eighty-nine people over the past twenty-two months, if converted into full-time positions at \$10,500 a year, would have required twelve full-time positions, and I might point out that those twelve full-time people, had those positions been established and had twelve people been able to do the work at \$10,500 a year, they would have, of course, been on the Division's payroll forever, or for a very long time.

The Division has found that seventy-eight of these consultants did not work in New York City governmental positions before. So, if I can turn to the issue of prior New York City employment, as Commissioner Klein said earlier today, of 997 provisional appointments to classified and unclassified positions during the past year, including the eighty-nine per diem consultants, the Division has identified 16 people who once worked in New York City government. Of the 16, 3 worked as consultants, completed their assignments, and have left. Five additional consultants will complete their assignments and terminate their employment over the next several months. Five are in full-time classified titles, and 3 are awaiting the establishment of classified positions by the Civil Service. Two of these are project specialists now, and 1 is a consultant. Not one of these people was fired from a job in New York City, or seeking a haven in New Jersey.

Over the past twenty-two months, the percentage of the Division residing out of state has decreased by ten percent. There are two hundred and two individuals out of two thousand five hundred and seventeen whom Civil Service tapes have been able to identify from their Civil Service 21 Forms as not being residents of the State of New Jersey. I repeat that that number has dropped ten percent since January of 1974. Not one of these individuals was hired for any reason except to perform absolutely the essential services for the Division. We hire personnel on the basis of their qualifications and their ability.

We asked Civil Service how many people in state government do not reside in the State of New Jersey, and they told us that 4,000 state employees out of the 58,000 employees did not reside within the borders of the State of New Jersey. I have a number of answers to questions that were raised earlier, but I would like to thank you for the opportunity to make this statement.

SENATOR BEDELL: Are there any questions? Senator Vreeland.

SENATOR VREELAND: Thank you, Mr. Chairman. Mr. Kagen, according to Exhibit 7, which was compiled by Institutions and Agencies, containing resumes of employees with prior experience in New York City government, we have 11, according to this Exhibit 7. When these people were hired, brought over from New York, I'm assuming that you hired them, because you are the Director of the Division of Youth and Family Services; is that correct?

MR. KAGEN: That is correct, sir.

SENATOR VREELAND: You made the decision to hire them.

MR. KAGEN: Not in every case, no. There were three individuals who were hired whom I had never known before, and several of the individuals were hired by people whom I hired, and I certainly would not want it to appear ---

SENATOR VREELAND: Oh, I see. It came through your being there that these 12 eventually ended up in New Jersey, right?

MR. KAGEN: I think that is fair to say, yes.

SENATOR VREELAND: The only one I notice here that went before the Salary Adjustment Committee of the State was Mr. Ippel. I notice in the minutes here of the Salary Adjustment Committee that his salary was decided by the Salary Adjustment Committee. Are any of the others, that you know of -- I don't see them in these minutes. These may not be conclusive, and probably are not. Were any salaries set for these people that you hired from New York City by the Salary Adjustment Committee, or were they set by you? How were their salaries determined? For example, let's take Mr. Ippel.

MR. KAGEN: Let me just interject, in the period we are discussing, we put before the Salary Adjustment Committee 25 requests. Fourteen of those were approved, and two of them were prior New York City government employees, one was Mr. Ippel and one was Mr. Epstein. Both of those people were hired into classified positions.

Now, with respect to the determination of salary for, particularly consulting positions, because those are the ones that are first done at the discretion of the Division, and then with approval by the Department, I would like to read to you from my report the procedure we use for establishing salaries, if I may. "Guidelines of the Departments of Civil Service and Treasury permit the establishment and filling of so-called special service account positions under which per diem consultants fall, if one of the following criteria is met: One, the project or program is of short duration and employment is to be on a casual or part-time basis; or a project is of long duration but will employ numerous individuals for varying short periods of time on an irregular basis; or other special situations exist which require employment of individuals in positions for which the Department of Civil Service has indicated it will not establish classified titles; or the amount to be expended in any given fiscal year does not exceed \$2,500." And then we describe some of these accounts.

And then we say, "Each request to establish a special service account must be accompanied by the following: Description of the services to be rendered, including the number of employees by title and salary rates, justification, project title, total funding request, source of funding, and an indication whether a request is new or a continuation. The Department of Institutions and Agencies personnel guidelines supplement these six rules by requiring the following as well: Seven, the resume of the proposed employee with salary history, including information on any employment commitment to another state division or department; eight, requested per diem rate. The guideline is current or prior annual salary divided by 250 working days; and, nine, complete justification of the fill request including but not limited to an explanation of the need for the particular individual, and the expertise that person can provide coupled with specific reasons for not importing the individual to work within the confines of the existing classification structure."

SENATOR VREELAND: Well, I think that is fine, but Miss Gabler came over as a \$100 a day consultant, originally?

MR. KAGEN: Yes, sir.

SENATOR VREELAND: And then she was given a permanent position?

MR. KAGEN: Well, we are awaiting the establishment of a permanent title by the Civil Service Commission.

SENATOR VREELAND: Well, when was she brought over?

MR. KAGEN: She began working in July, July 26, 1974.

SENATOR VREELAND: So she doesn't have a permanent classification? She is unclassified?

MR. KAGEN: No, -- that is correct. She is paid as a consultant.

SENATOR VREELAND: Well, are all the rest unclassified, the others out of this 12?

MR. KAGEN: No, sir.

SENATOR VREELAND: Well, either that or they are consultants or project specialists?

MR. KAGEN: No, sir.

SENATOR VREELAND: What are they, classified?

MR. KAGEN: Of the sixteen people who have prior New York City government experience, three worked as consultants terminated when their assignments were completed; five additional consultants will complete their assignments, and terminate their employment over the next several months; five are in full-time classified titles; and three are awaiting the establishment of classified positions by Civil Service.

SENATOR VREELAND: That makes eight. Eventually there will be eight, five and three?

MR. KAGEN: That's correct.

SENATOR VREELAND: They will be classified; is that right?

MR. KAGEN: Yes, sir.

SENATOR VREELAND: And they will be full-time employees?

MR. KAGEN: Yes, sir.

SENATOR VREELAND: As classified under Civil Service?

MR. KAGEN: Yes, sir.

SENATOR VREELAND: I think that what we are here to find out is -- you came over from New York, and as Mrs. Klein said this morning, and I don't question that, and she felt that since she was the Commissioner she had the right to hire the person she thought qualified to do the job. And then, of course, you brought in, as I get the picture, additional people from New York, and some of them were working at the same agency that you were.

MR. KAGEN: Yes, sir.

SENATOR VREELAND: Now, whether or not they lost their jobs or were in the process or about to lose them, I don't know, but ---

MR. KAGEN: They were not, sir.

SENATOR VREELAND: They were brought over here, and given, let's say, well-paying jobs in the \$20,000 bracket ---

MR. KAGEN: No.

SENATOR VREELAND: I am only reading from the paper here. I'm assuming Mr. Weinstein is \$24,000; Mr. Trobe is \$26,000; and Miss Gabler, I know that was in the twenties.

MR. KAGEN: Those three people are people who were hired -- let me say one thing. There are fourteen senior or executive positions in the Division. I created a number of those positions when coming to the Division because I felt the management structure was inadequate. Of the fourteen senior positions, I made permanent seven of the pre-existing people. I felt very fortunate to have them already working in the Division. They were in acting capacities. They were civil servants in the State of New Jersey. I made them permanent employees. That had not been done before. I promoted three other people to bureau chief in high levels in the Division. These were people with records in Civil Service in the State. I retained three individuals who were in permanent assistant director positions. One of our assistant directors was promoted to the Department of Environmental Protection, and we are very sorry to lose him. He

was in charge of our fiscal operation, and at that time I made Mr. Weinstein the acting assistant administrator in charge of fiscal-management. He was not doing that job prior to that time and was not brought here to do that job, so I find that particularly inappropriate to be accused of not finding and looking for people and trusting people who had come through the ranks in the Civil Service in this Division, because the bulk of the senior management are people who are from the Division and from the State and have been here for many years.

And in addition to that, with the creation of over nine hundred jobs, something that had not been done before in the Division, I just feel it is inappropriate to say that Commissioner Klein's efforts and my efforts have not been precisely in the direction of providing career ladders in this Division.

When I came to office, I got a report dated June, 1972, which my predecessor had had compiled by going to each of the district offices of the then existing, just-become Division of Youth and Family Services, and every single complaint that was recorded in the newspapers and that was reported to me was recorded then, and there is no question that those complaints are entirely legitimate. The Division fought for many years to win promotional opportunities, pay increases - because social work positions had been grossly under-evaluated - and I guess it was one of the reasons the Division became a Division from a bureau within another Division in I & A because it was so large and its case load had grown so rapidly. I just think it is wrong. I think the facts show that in fact the opposite is the case. Division management hasn't been taken over by outsiders; people have been placed in jobs; a person who was a lawyer, a person who had fiscal and budgetary background and persons who had contract experience were placed in jobs. That's what we are talking about. And out of a thousand appointments in the State and three thousand other jobs that have been created in the State of New Jersey as a by-product of providing necessary social services, I think the Division's efforts and the Commissioner's efforts in this area have been just in that direction of making it possible to have people work and have promotional opportunities in the State.

SENATOR VREELAND: I don't question what you say. I think it is true, but -- and I can understand your feelings and Mrs. Klein's and Bob Mulcahy's or anybody else's feeling the way you do, but by the same token this Committee has to face the facts of life the way they are and as we see them. The fact of the matter is, and I think you would agree - or at least I think you would - that there are some positions here that have been taken up by people from New York - and I am not talking about you as the Director of the Division of Youth and Family Services - which could have been filled by promoting within the ranks.

You already said that you did some of that, and I think that is commendable. But I think the feeling of the people probably in your agency is that when they noticed these people coming in and taking these jobs - and some of them you created, as you just said -- it looked as though you might have created them so you could fill them with these people. I am sure you didn't. As you say, you did it to have a more efficient operation. But the fact of the matter is that we have to face the fact and I'm sure you are facing it too, as is Mrs. Klein, that it is the citizens of the State of New Jersey to whom we have to answer.

I have just one or two more questions. One of them is in relation to the four thousand people of whom twelve hundred are unclassified; you mentioned one thousand new jobs or new additions. I am interested to know, are those thousand jobs funded



through federal funds, the additional \$40 million you tell us you are getting that wasn't being used prior to your coming over? How did these thousand new jobs get in here, because being a member of the Appropriations Committee, I realize a thousand jobs are a lot of new jobs. Are they using State funds to pay for these jobs or federal funds?

MR. KAGEN: In the vast majority it is federal funds, through the work incentive program and Title 20 of the Social Security Act. I just want to reiterate what I said before. Over the period that we are talking about, since January of 1974, the Division's budget has grown immensely from essentially \$50 million to \$111 million, plus \$32 million responsibility we picked up with the county welfare boards, but leaving that aside for a moment, that growth was achieved with approximately a \$6 million growth in State funds. So you can see that the leverage in all areas, the contracts we sign in day care right to the Division's staff, they are funded primarily with non-state funds, and out of our total \$142 million responsibility, there are only \$29 million in state funds, and most of those are in the State Aid account for foster maintenance payments and so on and so forth.

So I thought it was important that while indeed eight full-timers and eight part-timers had come in from New York City against the fact that there are 200 people in the Division who are not residents of the State of New Jersey, the people of the State should know that 4,000 new jobs now exist in the State of New Jersey. I, of course, can't tell you the background of every one who is filling those jobs, but I can say that I think that's hopefully a reverse contribution to the unemployment problem that we have in the State.

SENATOR VREELAND: Maybe I didn't understand you. Are you saying that those jobs are being funded with money other than from the State treasury?

MR. KAGEN: Primarily, yes, sir.

SENATOR VREELAND: Thank you.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: Is the 997 just the figure for your Division alone?

MR. KAGEN: Yes, sir.

SENATOR FAY: That is 997 provisional appointments to classified and unclassified. What we have heard this morning was a vote of confidence from Commissioner Klein that you had complete control, complete authority, to hire these 997 people, and the fact that 16 of them happen to be from New York -- these were the most qualified people you knew for these positions?

MR. KAGEN: Yes, sir.

SENATOR FAY: And there was no thought, there was no research, there was no search for anyone in the Division as it is, or outside the Division, before you selected these people?

MR. KAGEN: That is not true, sir.

SENATOR FAY: Well, I'm asking.

MR. KAGEN: No, that is not true. I will acknowledge that in every case I didn't do the kind of recruiting job that one might if one had the leisure of lots of time to get work done. I said before to Senator Vreeland that of top Division management, 11 of the 14 positions were filled by people who were from the State and had worked their way up through the Civil Service system, most of whom I made permanent by promotion or by removing their acting status and making permanent positions, so a number of these jobs we did -- a number of the full-time jobs out of the sixteen, which number eight, we did do a lot of looking. One particular one is the -- hopefully, once it is created -- the Assistant Director of the Office of Regulatory and Legislative Affairs. We advertised

widely and saw many, many candidates. I felt pleased, as you might imagine, after going through that process, that I was finally able to convince Kathryn Gabler to accept the job. I was proud I was able to do this. She had been working on a consulting basis. She had not entertained the thought of taking a permanent job, but after a lot of looking, we nevertheless convinced her to change her mind, and I am very happy about that even after looking, because to me she was still top notch and I knew her work. I knew her product.

SENATOR FAY: She went from a consultant to a permanent employee?

MR. KAGEN: Well, she is still being paid as a consultant, because we are awaiting the Civil Service Commission's creation of this classified assistant director position.

SENATOR FAY: How will her salary differ? Was she one of the \$100 a day consultants?

MR. KAGEN: Yes.

SENATOR FAY: Under her new job classification, how will her salary differ from the \$100 a day consultant fee?

MR. KAGEN: It will undoubtedly equalize, but it will cost the State a lot more, of course, because they will have to pay health benefits and fringe benefits for her.

SENATOR FAY: We asked this question last week of Mr. Druz and of the budget director: How do you arrive at these particular salaries? We see people hired at \$25,000 and \$26,000. Some of the answers last week were ambiguous. Exactly how does one arrive at a salary of \$25,000 or \$26,000 in these project specialist areas?

MR. KAGEN: To those of us who have to go through the system, it doesn't appear ambiguous at all. It is a long drawn-out process which I would like to detail to you, if you would like. It differs depending on the positions.

SENATOR FAY: For example, we will use one of the men that you did hire. How would you arrive at Mr. Weinstein's salary of \$24,000?

MR. KAGEN: Let me read to you from my report what the process is, and then we can talk about the particulars. This is from page 13 of the report we submitted to the Committee. "Each division request undergoes critical review during a lengthy and rigorous approval process which confronts, A, salary, taking into account prior salary and experience and relationship to the evaluated position structure in New Jersey; B, need; C, job definition; and D, relationship to existing division organizational structure."

Now, what we do is we look at the individual's salary background. We make a judgement as to where the level of this individual's job fits within the division structure. We write that all up and send it to the department who then has to review it and will then send it to Civil Service and the Budget Division who will then have to review and approve it, and they use, as I understand it, the same criteria that we do. That is, basically, the person's prior salary and the level of the job that he or she has been asked to do.

Now, with the consultants, the process is essentially the same, but the consultants do not get approved - each one does not get approved by Civil Service or Treasury. A consultant account is set up, and the approval process is between the Division and the Department.

SENATOR FAY: Of these 997 appointments, classified and unclassified, you are going on the record now and saying that everything did meet the law and the criteria and the rules and regulations of Civil Service.

MR. KAGEN: Yes, sir.

SENATOR FAY: There have been some charges saying there might have been a subversion, that there might have been outflanking of Civil Service, but you are insisting that OFA or any other of our investigative arms will find that all of these people did meet the criteria?

MR. KAGEN: Well, as I said earlier, Senator Fay, yes, they did to the best of our knowledge and our ability to check them. There are two things I want to point out. I said earlier that we might be accused of being late on converting some of the project specialists to classified titles. I don't believe you were in the room when I gave the figures, but we have had a 20% decline in the use of project specialists in my Division since January, 1974. We have converted 7 of those positions into classified titles, and we have abolished 7 and we have converted 11 or 16 others into classified titles, and we are doing the rest.

Now, I am relying on the Civil Service Commission who has been interviewing every project specialist and consultant in our Department, all our promotions and all our appointments, at least over the past 22 months and is going to do a report. I believe that report may accuse us of being tardy in some respect, but it will not accuse us of violating Civil Service rules and regulations. There may be some differences in interpretation, which we will be willing to talk about then. But I want to tell you that there was neither an intent nor was there, on the establishment of these jobs, any circumvention or intent to circumvent Civil Service rules and regulations. I can tell you that because I spent endless hours trying to do it the right way, so that the people who come on board in classified positions, the people who are on board, and the people who come on in unclassified positions have their own protection just so such a situation would not arise.

Unfortunately, I think, taken out of context - and it may well appear, as Senator Vreeland points out, to people that we have done things wrong. Well, I think I can say it, and I hope Civil Service will confirm that we have done it right.

SENATOR FAY: Do you have a track record on the provisional appointments, as far as the classified, of people you have brought to the Salary Adjustment Committee?

MR. KAGEN: Yes, sir.

SENATOR FAY: We would like to have that for the record, too, the number of people you have brought on and then have had their salary adjusted.

MR. KAGEN: Yes. As I pointed out before, sir, there were 25 requests of the Salary Adjustment Committee in the period of April, 1974, to the present. Fourteen of those were approved.

SENATOR FAY: My next question would be, after all of this soul-searching and documenting to arrive at a salary, why would there be such a number to go through the Salary Adjustment Committee after you have arrived at the salaries?

MR. KAGEN: Well, these are 25 total requests out of 1,000 over the entire period. Fourteen of these were approved. Only two of those fourteen were classified titles and were people who came from New York City government. So I just want you to understand that consultants and project specialists do not go through the Salary Adjustment Committee.

SENATOR FAY: We know that. We established that last week. How many consultants, besides Mrs. Gabler, and project specialists have been moved into the provisional and classified positions?

MR. KAGEN: Well, let me give you that. Since January of 1974, six project specialist positions have been abolished. The Division has transferred seventeen project

specialists to classified titles, and is converting its remaining vacancies into classified titles. I want to point out that we have decreased our utilization of project specialists from 28 in January, 1974, to 22 as of today. That is a 21% decrease.

SENATOR FAY: But by that decrease you are moving the project specialist into classified? Even though the project specialists might be going down in number, "X" number of them are moving into the provisional category and into the classified category?

MR. KAGEN: That would be the point, yes, sir.

SENATOR FAY: In spite of what Commissioner Klein says, the Star Ledger did not invent questions about the Division of Youth and Family Services. We individually and collectively have been hearing from social workers and people in the field. In fact a group of them a week ago had asked a special committee to actually do a complete and comprehensive study and investigation of the Division, and I do feel that we have a particular role. This is the first of many meetings on the departments. I don't feel that we are equipped to go into all the pros and cons of a brand new division that I am not about to make snap judgements about without a study.

But I do feel, Mr. Chairman, and this is directed to the Committee that those who can be called should be called, and I think that I would like to set aside one public hearing for us to call a certain number of project specialists to appear, not just from I & A, and not just from the Division of Youth and Family Services, but I would like to have a day for this Committee to be able to call on individuals. Are all your project specialists available to be questioned?

MR. KAGEN: I am sure they are.

SENATOR FAY: We would like to go into their qualifications and their job performance and their need within the structure of the State.

SENATOR BEDELL: Sir, I don't think your request is unreasonable. We don't have our counsel with us at the present time, but he had told me previously that the enabling resolution which constituted this Committee gives it virtually unlimited powers in the area of which you are concerned at the present time. So I do think we are empowered to go to any extreme we deem feasible in attempting to establish what the facts may be. And I think your suggestion is well taken.

SENATOR FAY: I have the names of some people whom I feel would be more likely to come with a subpoena because of their positions and because of the fact they might be put on the spot, and I would recommend, after we have consulted with counsel, the use of subpoena to bring some of the full-time state people here.

SENATOR BEDELL: I think also - not that I want to digress at this point, Senator - that we have had a couple of occasions already this morning where we do have what appears to be conflicting statements from two departments. It might be well for this Committee at sometime in the future to have both people here concurrently, because obviously we can't accept both as fact. We are going to have to find out exactly what the situation is and the only way we can do it is with a confrontation between the sources of the two conflicting statements.

Senator Hirkala.

SENATOR HIRKALA: No questions.

SENATOR BEDELL: We have a list before us which was submitted earlier. The legend at the top says that these are Project Specialists other than those in the Division of Youth and Family Services. Do we have or can we get a similar list from your department with your Specialists?

MR. HAGEN: You have it as Exhibit 5 in my report, sir, and the Consultants.

SENATOR BEDELL: I haven't had a chance to look at it.

Would we be able to get, with those Project Specialists, those that have

found employment in New Jersey, how much they were paid in their previous positions before they were hired by you?

MR. KAGEN: Of course.

SENATOR BEDELL: Could we find out how long they had worked in their previous positions?

MR. KAGEN: Yes, sir. A large number of the resumes are attached and any information that we could perhaps ---

SENATOR BEDELL: Would this also convey to us the situation that existed when they left their previous employment, as to whether they were terminated and then hired by New Jersey or hired directly while they were still working in New York? Would it also tell us that - what their circumstances were at the time they were hired by New Jersey?

MR. KAGEN: I don't know that their employment record as they present it would say that.

SENATOR BEDELL: What I am asking is: From your point of view, did you hire them directly from a New York agency where they were employed at the time or had they ceased working for that agency at the time you recruited them?

MR. KAGEN: It varied. Some of the Consultants were doing consulting work. We did not want to make it appear to the Committee that we were withholding names of people who had recent prior experience in New York government or that my prior knowledge of some of these people was being withheld from the Committee. So included are people who had just prior work and those who had several years' prior work who were doing things in the interim. I don't remember the limit we set, but it was certainly anyone I knew personally, number one; and, number two, with a three- or four- or five-year limit. I can assure you - you can have my statement right now - that none of these people, as we had looked into it, was fired from a job, no job was abolished at the time they left, or whether it was immediately prior to their coming here or long before that ---

SENATOR BEDELL: You said that in your statement.

MR. KAGEN: Right. I don't know if you would like to seek independent verification of those facts, but I could certainly provide counsel with a list of the personnel officers of those agencies and he might wish to write and inquire or whatever you would like to have him do.

SENATOR BEDELL: It is not my desire to embarrass any of those individuals by what might come about.

MR. KAGEN: I understand.

SENATOR BEDELL: Is it fair to say that some of them were employed in New York at the time you hired them and others were not?

MR. KAGEN: Yes, some of them left their jobs to come to work here - yes, sir. I would just like to say, since there appears to be 4,000 people employed by the State of New Jersey who do not live within its borders and I am sure many people who have worked for other governments in other places, that perhaps the Committee would want to consider speaking to some of those people, not just those in the Division of Youth and Family Services.

SENATOR BEDELL: You mentioned before in answer to Senator Fay's question that you had processed a total of 25 requests for salary adjustments to the Salary Adjustment Committee. May I ask: Are we talking about 25 individuals there or are we talking about some repetition of the same people in that 25?

MR. KAGEN: Twenty-five separate individuals.

SENATOR BEDELL: Twenty-five separate individuals?

MR. KAGEN: Yes. That is over a two-year period. I wanted to point out on

the two new hirings that I was responsible for out of that group of Salary Adjustment requests, I think, when you see their salary histories, you will understand why we agreed to try and hire them at the higher rate. As you may know, when you are hired into a classified title, you must first come at the minimum rate and seek approval from the Salary Adjustment Committee. So in these two cases, they people were simply being equalized to their prior salaries. They had to come and, of course, take the risk that the Salary Adjustment Committee would not in fact approve that increase. For the new hirees, that is how it works.

SENATOR FAY: So in every case we had to meet or better their New York salaries? Is this the bargaining point, that we would meet or better their New York salaries, if they would come across the Hudson?

MR. KAGEN: Senator Fay, I try and hire people regardless of their title and position by taking into account the job they will do and their prior salary history. I think that is common practice. I have made no bargains or deals with people. In the case of the two individuals whom I hired, they came to this State, knowing that they were starting at the minimum of the range and that it was up to the Salary Adjustment Committee to make the change. It is usual for people changing jobs, I believe, to at least achieve their existing salary rate.

SENATOR FAY: Is it a fair statement then that every one of the people who came from New York or from any other state in the union to New Jersey came at a higher rate of pay than the job they were leaving?

MR. KAGEN: No, sir, I can't tell you that because I don't know about all the hundreds of people who have come here from other places.

SENATOR FAY: No. I am talking now about the 16 people who came into your division from New York. Did each and every one of them improve upon their salaries?

MR. KAGEN: No, sir. In fact, a number of the Consultants -- the reason the figure \$100 a day appears frequently for Consultants --- And we have a breakdown of their qualifications, which was requested by one of the Committee members earlier. A number of the physicians, psychiatrists and people of that kind were earning significantly higher salaries and would justify a higher daily rate. But because of the shortness of the work involved, usually an average of 30 days, and because it just isn't worth the hassle, frankly, of going through Civil Service and I and A and the Budget to get a higher than \$100-rate, many of them came for less than the daily rate that, in fact, they would be entitled to under regular circumstances. So many of them did come for substantial cuts.

SENATOR FAY: Many of these 16 people about whom we have been talking, therefore, did not receive an increase in salary; for instance, Miss Gabler at \$100 a day, her salary previously was higher?

MR. KAGEN: As I recall it, Senator, not in her case. In the case of Consultant Dr. Robert Newman who worked 12 days for us, he was paid the Specialist Consultant rate.

SENATOR FAY: Did Mr. Epstein take a cut in pay to come over?

MR. KAGEN: I just wanted to finish about Dr. Newman. There is a Specialist rate for physicians which is \$160 a day. He earns considerably more than that, but he was gracious enough to do this assignment at \$160 a day. I frankly haven't gone through each of them, but if you wish to go through each of them, ---

SENATOR FAY: Since Mrs. Klein spoke particularly about these 16 people, I would like to specifically know who of the 16 did take a cut in salary. You mentioned the fact that some of them actually did take a cut in salary to come over here to



work for the State.

MR. KAGEN: If you give me a couple of minutes, I could go through each of them and do that.

SENATOR FAY: Sure.

SENATOR BEDELL: Senator Vreeland.

SENATOR VREELAND: He is busy now.

SENATOR BEDELL: You don't have to submit those figures to us right at this moment. We would like to have them.

MR. KAGEN: Yes, sir.

SENATOR VREELAND: Mr. Kagen, I guess I am not getting this straight in my mind. You have repeated and reiterated that of the people that came from New York, you hired twelve who were listed in what you gave us this morning, Exhibit 7. Isn't that right? Aren't those 12 the ones that you hired?

MR. KAGEN: Let me explain it again if I can. The report explains it and all the resumes weren't attached. There were 16 people - 8 of them were part-time people and 8 of them were full-time people - whom we have been able to identify as having recent prior New York City government experience. Of the 16, I knew of, I had met and known 13 of those individuals. Three I just didn't know, but we have been able to find 3 others.

SENATOR VREELAND: Isn't it a fact then that through your position here in the State of New Jersey, those 13 - let's say 13 - were given jobs over here? Isn't that true?

MR. KAGEN: Yes, sir - full time or part time.

SENATOR VREELAND: And you said none of those people was unemployed; they were all working in New York.

MR. KAGEN: They were all working. Some of them were working in New York and ---

SENATOR VREELAND: Isn't it a fact that where you were working, the Addiction Services Agency, a unit of New York City's Health Service Administration, was about to be phased out and that you knew it? Isn't that true?

MR. KAGEN: No, sir.

SENATOR VREELAND: That is not true?

MR. KAGEN: Would you like me to testify on that subject?

SENATOR VREELAND: Yes. This is the point that has been reiterated in newspaper after newspaper, that this agency that you worked for was about to be phased out, there were no more funds available, and, therefore, you came over and you brought these people from that agency, knowing full well what was going to happen.

MR. KAGEN: I have read that myself and I want to say to you that I have never been asked by any reporter whether that is true or false. I don't know how the reports came to the ---

SENATOR VREELAND: Just answer the question. Is it true or false?

MR. KAGEN: Okay. I left - I resigned from New York City government on February 15, 1974. At that time, the then new Mayor Beame had just appointed a Commissioner of the Addiction Services Agency. I take it there had been talk from Mayor Beame, who was as you probably know comptroller of the City of New York for a number of years, about changing the structure of the government of the City of New York and eliminating what were known as the super agencies. The Addiction Services Agency was not a super agency. It was a small agency, much smaller agency, which Mayor Lindsay had a year prior to that transferred under the Health Services Administrator. There was a great deal of talk -- there has been a great deal of talk in the ensuing years, which I can only tell you I know of from the newspapers. At the time I left, the new mayor, himself, appointed

a commissioner to that job. Since that time - I accepted work here in the State of New Jersey May 20th of 1974, about three months later - and starting with my appointment as the Director of the Division of Youth and Family Services, I began seeking out people from all places, including these 13 individuals whom we have discussed. I hadn't turned it around this way, but I will do it and can do it in just a few moments. A number of the people who were brought on as Consultants were people doing consulting work in the City of New York. A number of the people had recently left New York City government before there was any change. I might point out that the Mayor also appointed a Health Services Administrator to replace the prior Health Services Administrator. So there was a great deal of talk and, indeed, there may be a change in the structure of the super agencies in New York. I don't know. And there may be a change in the functions of the Addiction Services Agency. But I just want to make clear to you that there are \$85 million worth of contracts, servicing over 30,000 drug addicts, another 180,000 school children in the public schools and another 20,000 in methadone maintenance and detoxification programs that exist to this day. And I don't believe under any reorganization scheme that jobs will be eliminated or that functions will be eliminated.

I can tell you to this day, although jobs have gone vacant in many areas of government in New York City, none of these jobs has been abolished that these people left. I just want to make it clear there may be new names and a lot of public relations surrounding the change in organization, but these people were doing essential jobs which continue to exist. That some of them left at the end of an administration or prior to the end of an administration is just normal turnover of employees of government or any other bureaucracy.

But I have never been asked by any reporter whether those facts are true. I have only read newspaper accounts of the situation in New York.

SENATOR VREELAND: Thank you.

SENATOR BEDELL: In the news release concerning the summary of the DYFS report, dated December 10, 1975, on page 3, under Project Specialists, it says: "This title was created for positions established under federal grants for a duration of up to two years. Civil Service later expanded the length of service for these titles to five years. The division has observed Civil Service regulations and procedures, which permit the establishment and filling of Project Specialists when. . ." I won't enumerate them. But this conveys that this was all done with Civil Service supervision or authority.

MR. KAGEN: Yes, sir.

SENATOR BEDELL: Do you have documentation of that or was that done by telephone or by verbal conversation with the Civil Service Commission?

MR. KAGEN: In every case.

SENATOR BEDELL: It was a written documentation?

MR. KAGEN: In every case.

SENATOR BEDELL: Can you submit to this Committee that documentation?

MR. KAGEN: Yes, sir.

SENATOR BEDELL: Thank you.

In, I guess, the most recent meeting of the Salary Adjustment Committee - and I am reading from one of our newspapers and quoting - "Two Clinical Psychiatrists out of New York, to work for the Department of Institutions and Agencies, to receive," - it looks like \$29,398, each. "Another program, Development Specialist, out of New York, who will now work with the Division of Youth and Family Services in I and A, to receive," - it looks like \$15,394. Did these people have credentials that couldn't be met by anyone in New Jersey?

MR. KAGEN: Sir, I can't respond on the two physicians because ---

SENATOR BEDELL: I understand that. That was the lead-in. How about the last one.

MR. KAGEN: Oh, I'm sorry.

SENATOR BEDELL: In a case like that, would a person like that have credentials that couldn't have been met by a New Jersey State resident or is this a career employee who perhaps was there before you took over? I don't know what the name is and I wouldn't say it anyway. This was in the most recent meeting of the SAC.

MR. KAGEN: This is David Ippel, one of the individuals mentioned in our papers. I think I would agree wholeheartedly with the position that there are undoubtedly people in New Jersey who can fill my job and any other job one could imagine. As Commissioner Klein said, I can only defend hiring some people whose work I knew to be superior, based on the record of their performance and what they will do and what they can do, and on the incredible pressure I have felt from the Governor and the Commissioner to do the job that I have been asked to do. I submit again that there are 4,000 non-residents employed in New Jersey and I recall Mr. Callahan's statement of this morning, that when setting up his OFA fiscal group, he brought in three outside senior CPA's. And I think if it weren't for the fact that our work has produced 4,000 job opportunities in the State of New Jersey, or if these were the only people that were hired, or if career civil servants weren't 11 out of 14 of us in senior management running the division, or if we didn't have aggressive training and recruitment programs, but not nearly as much as we should, and if we hadn't hired an affirmative action officer in the division - I don't know any other division of State government that has one - if we didn't have several million dollars in training programs, I guess I would be embarrassed about that or, if I hired these people because I was trying to save their necks, I'd be embarrassed about it, or if they did a lousy job.

I just feel the way the thing has been presented, out of the context of our achievement, out of the context of all of the jobs that are available in the State of New Jersey in the past two years, that it would make me very angry if I were somebody sitting out in either a district office or an unemployed human being. I would be very, very angry. But I think if I knew that 4,000 people got work as a result of some of the efforts of Commissioner Klein and the division, I perhaps wouldn't be as angry.

SENATOR BEDELL: I want to point out also that I don't think this Committee or anyone has any hard-seated objections to people from outside New Jersey coming to work in it. But I don't want to be led astray from the questions we are trying to focus on by your talking about the total number of people because we are not at this point interested in those people who are coming in through competitive examinations; we are interested in the people who are coming in on an appointive basis, either unclassified, provisional and/or temporary, and those people who have been making substantial amounts of money. We are diluting the problem we are working on by trying to merge it into this massive total employment. We are not talking about that. I just want to get back to center again. As I said before, of those thousand, I am not talking about the doorman and the custodian. I am not interested in them. I am talking about the high-rollers, so to speak. So when you compare 16 to 1,000 as opposed to 16 to, I think the figure now is 132, the ratio becomes much more pronounced. That's where we are focussing our attention.

MR. KAGEN: Yes, sir.

SENATOR BEDELL: I am not questioning the total amount of people hired through civil service procedures in any of our departments from out of the state.

We are concerned about the charges made that you are aware of, and we are trying to get to the bottom of them. That is the job of the Committee.

MR. KAGEN: Sir, if I could just say two things: You asked a question before that I wanted to respond to. The problem of not having prompt tests and testing procedures is severe in the Division of Youth and Family Services. We have, as of this payroll period, 2,641 people on board. Out of that number, there are only 1,639 who are permanent employees and another 268 who are provisional and who have permanent status and are on leave from their permanent jobs, which leaves us with 734 people who do not have civil service status, who have been here --- I had never known that Ruling 11 talked about 4 months. It is routine in our division for years to pass without an examination being given. Finally we had a Social Worker, II test given in June and the results of that test were challenged by the Black Social Workers Association. The Civil Service Commission held up the appointments for about a month. Then we determined that because of freezes and so on and so forth, we had so many vacancies that we could use all the people from the list and still have vacancies left over so that provisionals who didn't pass who might have been discriminated against by the test, if that were so found, would not be bumped. So we were allowed to go ahead.

I certainly understand the problems faced by the Civil Service Commission. I just want to say that it does great damage to the employees of our division. I would like to say further that I still don't think that a record of 16 -- since I would obviously not be appointing lower level staff, I think that a record of 16 out of 132, where 11 of the 14 senior people in our division are permanent employees and not one person lost his job who was a senior person in the division as a result of this, shows in fact the opposite. It shows strong concern in recruitment if I made 7 people permanent who weren't permanent before. I don't know why they weren't permanent; I made them permanent. They were bureau chiefs.

So I think just the opposite. I think to bring in an experienced lawyer in government to do essentially legal work and work with the Attorney General - it is not likely we would have found someone in the division. We recruited and advertised for it. In fact, we had applicants from a lot of different places. I don't recall if we had any applicants for the senior job in this legal group from the division. But there just aren't a lot of lawyers who work in the Division of Youth and Family Services obviously. To hire a fiscal person, it is not likely that among the people who were disgruntled and upset, Social Workers essentially, there would be much interest or application from Social Workers for a chief fiscal or budgetary job. As I say, we lost one of the finest career civil servants in the State to a promotion in another department and that is why that job became vacant.

So I just don't think that that is the record of someone who is out to axe career people. And I don't think that that figure of 922 additional positions -- I know that the Civil Service Commission is going to report on this. The organizational chart on that Division two years ago looked like that table top, flat as a board, with a little tiny rail up the middle. Now because of our new responsibilities and because of our immense growth, there are a large number of opportunities which have been created, and that just wouldn't have happened if we hadn't been aggressive in providing social services. People don't feel that yet. Increments have not been granted to state employees. Social workers are paid now as though they are personnel assistants or accounting assistants. The fact that re-evaluation of the position of Social Worker has been in the process for three years and is not yet released is grotesquely unfair. Are people upset about it? You'd better believe it. I don't have any complaints with that. I think they are dead right.

SENATOR BEDELL: Senator Fay.

SENATOR FAY: Mr. Chairman, unfortunately most of the material we have before us was only delivered this morning, so neither we nor our staff attorney have had an opportunity to go through all of it. Senator Bedell has already pointed out we have had evidence presented at last week's hearing which has been contradicted. I feel as a legislator that this is a much-needed type of probe. A few years ago, there was no controversy. The fact of the matter is that the spotlight is on us and that the Commissioner and you and I do have to answer clearly to the public, whether it is annoying or not.

I have not had a chance to go through all of these resumes, but one just struck me. I would like to ask a few questions about that one. I think the average citizen would ask the same questions as far as the project specialist is concerned or a provisional. I see a resume here for a Carl Epstein, and his address is given as Montpelier, Vermont. I didn't realize -- is that his address?

MR. KAGEN: He was working in the State of Vermont when he came here.

SENATOR FAY: I have heard of mass transit problems, but ---

MR. KAGEN: When I employed him, he was working for the State of Vermont and he had left New York City government where I had worked with him before.

SENATOR FAY: He left New York City to go to Vermont?

MR. KAGEN: Yes. We thought it appropriate to include his ---

SENATOR FAY: His salary in New York, according to his resume here, was \$21,000. What was his salary in Vermont?

MR. KAGEN: I don't have it here, but I will certainly get it for you.

SENATOR FAY: He left New York in August of 1974, and his salary was \$21,000 per year. What is his salary in New Jersey?

MR. KAGEN: \$21,938.

SENATOR FAY: On his resume it says that he has his Bachelor of Arts, and he has his major in languages, and psychology. Just what is his position now in New Jersey? What is his responsibility?

MR. KAGEN: He is Chief of the Bureau of Residential Services.

SENATOR FAY: Is his background pertinent to the Chief of the Bureau of Residential Services?

MR. KAGEN: Precisely, yes, sir.

SENATOR FAY: This is a perfect example. We will have to go through resumes like this for every department, not just your department. This happens to be the biggest department by far, and the question was asked this morning of the Commissioner as to whether the department was too big for one person, and if it was in need of a paring down. Senator Hagedorn of Bergen County has had a bill in, which I am co-sponsor of, for two years doing just that, admitting the fact that the bureaucracy has become a maze and that the department is badly in need of a break down into two departments.

I do want to admit that we are not ready to do a thorough study and questioning of you and Commissioner Klein that we want to do, but we will do it before the next year is over. I want to thank you for giving all this information to us, so we can start on this kind of study.

SENATOR BEDELL: Senator Vreeland.

SENATOR VREELAND: Just one last question. I don't know whether Mr. Kagen can answer it or not - but maybe Mr. Mulcahy can answer it - the requests for the budget for the upcoming fiscal year for I & A, as I understand it, is for an increase of about \$250 million. Is that right?

MR. MULCAHY: \$241, I believe, Senator.

SENATOR VREELAND: As I am listening to Mr. Kagen telling us about the phenomenal growth of his division if you apply that to the Department of I & A as a whole, is this the reason for this great quarter of a million dollar increase - or needed increase, I guess you better put it that way - in the budget request?

MR. MULCAHY: No, Senator. Basically, if you look at the total number of employees in the department, it is slightly less than it was a couple of years ago. There are three major categories that I think the increase in the budget is related to: The first is - I think it is - around \$82 million in Medicaid, which is based on the inflation factor, the upward hospital rates, that we have no control over.

SENATOR VREELAND: Right.

MR. MULCAHY: The second is the increased welfare load in which we have to carry out the statutes of the federal government.

The third is the capital requirements that are in the budget that were defeated in the bond issue, to the degree that we felt they were needed to meet standards in the division. This division and to some degree Medicaid, which is really not the same kind of thing - it is not a case-load, out-in-the-filed operation - are the two areas that have grown. The others have not grown for a couple of reasons. One is there are new directions in some of them. Second, there is no money. And the major areas of growth are in areas where we can't control the budget.

The one point I would like to make that occurred to me while we were listening today: The area of social services happens to be a specialized area and it is very new. We had two people in our department who were acknowledged to be among the best in the country, particularly Jack Brizius, whom I think Senator Fay knew. Jack was offered \$8,000 more to go to the State of Illinois. The woman who ran the Title 20 Plan for us under the new Title 20 Act was also offered more money to go to Illinois to write their Title 20 Plan. We had a senior person in the division, Elizabeth Cole, who was the head of the adoption ---

MR. KAGEN: Bureau of Resource Development.

MR. MULCAHY: --- who was offered \$30,000 to go out and take a community agency job. We desperately tried to keep her. Everybody, even the Commissioner, talked to her. But, you know, under the system for the position she was in there was nothing we could do. It meant \$6 or \$7 thousand more for her.

We have lost good people because we couldn't be competitive. There is absolutely no question, as Senator Fay said, we are all under attack, which means that we have to face the management problems that we have in the division. The Commissioner alluded to that this morning.

One of the major problems that has bothered us has been the management problems of this division. He got more latitude because he didn't have time. There was no time. There isn't time to do the kinds of things to bring into control --- For example, Social Workers would go out and identify - and he can tell you better than I can - a child for foster placement, make out a transaction slip and send it in. There was no record, no billing from the agency or the placement where the child was placed. And they would make payments every month on this transaction slip that had never been reviewed. This is why he had Ernst and Ernst come in to look at things. It was almost an impossible situation because the legislation grew so quickly creating the responsibilities that you had to take care of the abuse cases - you had to take care of the JINS cases. We were in a terrible bind here. We had to say to the counties: "We have two months to do it. You have to create shelters. We have no money to give you." What did we do? We went out and found money from SLEPA and from the federal government to give grants to the counties to the tune of about \$600,000. We had no choice. We got no dollars.



These were the kinds of problems he was saddled with. I simply offer it as another side of the problem that is there. The growth has basically been, Senator in that division because of statutes, not by design. We just felt the money was available and we ought to use it.

We have used Title 20 money for training for other areas in the department. Anyplace that we felt that we could use it within the constraints of the law in the department, we have used it.

SENATOR VREELAND: Thank you.

MR. MULCAHY: I don't know whether that has answered you.

SENATOR VREELAND: That is fine. Thank you.

SENATOR BEDELL: I have no further questions.

MR. MULCAHY: Senator, I want to reiterate, on behalf of the Commissioner and Mr. Kagen and anybody in our department, that we are more than happy to appear anytime you wish, to supply any information you want. I spoke to Mr. Carroll this morning and I just want to reiterate it to you. I think it would be appropriate if he sent us a communication detailing the questions he wants answered because there have been a lot of them mentioned here today. I don't want you to feel we are overlooking anything. We have stripped ourselves, in fact, to give you the stuff that is here: the resumes of the people in question, all the Project Specialists, etc. It is there. And anything you want, we will give you. But I think so that we don't miss what you want, if you would just send us a note detailing the questions that the Committee would like answered, we would be more than happy to supply whatever we have on them.

The other thing is - a lot of the information in the form it was asked for does not exist. This is one of our problems. There was an Executive Order that specified what could and could not be released pertaining to personnel records; but, in fact, the tapes of payroll don't have some of the information that you would want that we had to find to match into these titles. It just meant manually going through the folders to come up with the stuff. This is unfortunate. One of the things we pointed out in there is, if Civil Service would tie it in and we had one system, one good system, where we could match the tapes from Civil Service and the departments for a variety of things, which is the thing we are trying to do with welfare and Medicaid eventually, then you could find out if somebody is on duplicate lists. None of that capability exists.

SENATOR BEDELL: We are hopeful that the deliberations of this Committee will bring forth that kind of recommendation and perhaps some valid rationale as to how it can be done - how it can be established.

Mr. Kagen, I want to thank you very, very much for your time before us today. I don't know where this investigation might lead, but I do want to say to you that I think you handled yourself tremendously today. Under some really tough questioning, I think you have risen to the occasion. Thank you.

MR. KAGEN: Thank you, Senator. I appreciate it.

SENATOR BEDELL: That will conclude the hearing for today. I am tentatively scheduling another hearing next Thursday in Newark, New Jersey.

- - - - -



JUN 27 1985



