

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

20th ANNUAL REPORT

1988



State of New Jersey
COMMISSION OF INVESTIGATION

28 WEST STATE STREET
CN 045
TRENTON, N.J. 08625
(609) 292-6767
TELECOPIER
(609) 633-7366

JAMES J. MORLEY
EXECUTIVE DIRECTOR

ROBERT J. CLARK
DEPUTY DIRECTOR

HELEN K. GARDINER
ASSISTANT DIRECTOR

THOMAS W. CANNON
EXECUTIVE ASSISTANT

COUNSEL

CHARLOTTE K. GAAL
CAROL L. HOEKJE
ILEANA N. SAROS

HENRY S. PATTERSON, II
CHAIRMAN

JAMES R. ZAZZALI
BARRY H. EVENCHICK
W. HUNT DUMONT
COMMISSIONERS

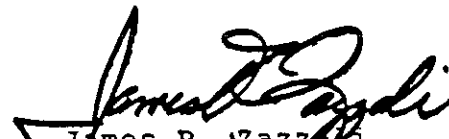
October, 1989

Governor Thomas H. Kean
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally submits, pursuant to N.J.S.A. 52:9M, its 20th annual report for the year 1988.

Respectfully,

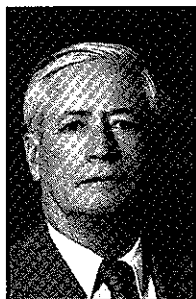

Henry S. Patterson, II
Chairman


James R. Zazzali


Barry H. Evenchick


W. Hunt Dumont

Members of the Commission



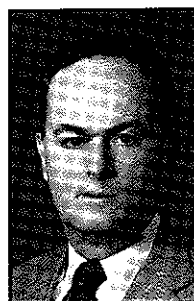
Henry S. Patterson, II
Chairman

Corporate executive, Princeton. Appointed to Commission February, 1979 by Gov. Brendan T. Byrne; reappointed by Gov. Thomas H. Kean, designated Chairman by Gov. Kean, March, 1985. Former president and current director of E'Town Corporation, and a director of its subsidiary, Elizabethtown Water Company; director of Mount Holly Water Co; director of United Jersey Banks & three of its subsidiaries. Mayor, Princeton Borough, 1962-69 (four terms). Graduated 1944, Princeton University. Veteran, World War II, discharged as first lieutenant in 1946.



Barry H. Evenchick

Attorney, Livingston; partner, Evenchick & Breslin, Livingston. Appointed to Commission June, 1987 by Assembly Speaker Chuck Hardwick. Associate editor, New Jersey Law Journal; New Jersey representative, Commission on Uniform Legislation; former chief, appellate sections, Essex County Prosecutor's Office and State Division of Criminal Justice; township attorney, Livingston, 1975-1986. Graduated 1960, Rutgers University; 1963, Rutgers Law School.



James R. Zazzali

Attorney, Rumson; partner, Zazzali, Zazzali, Fagella & Nowak, Newark. Appointed to Commission May, 1984 by Gov. Kean. Attorney General of New Jersey, 1981-1982; general counsel, N.J. Sports & Exposition Authority, 1974-1981; assistant prosecutor, Essex County, 1965-1968; associate editor, New Jersey Law Journal; served as court-appointed master to investigate conditions at jails in Monmouth & Essex Counties & in Newark; member, Supreme Court Disciplinary Review Board. Graduated 1958, Georgetown College; 1962, Georgetown Law Center.



W. Hunt Dumont

Attorney, Morristown; partner, Robinson, Wayne & LaSala, Newark. Appointed to Commission March, 1988 by Senate President John F. Russo. United States Attorney for New Jersey, 1981-85; assistant U.S. attorney, 1969-71; member since 1985, Board of Editors, National Law Journal. Executive vice president & general counsel First Jersey Securities, Inc., 1985-86; executive vice president & general counsel, Sherwood Capital, Inc., 1987. Graduated 1963, Lafayette College; 1967, Seton Hall Law School, third in class.

Executive Staff



Jules M. Cayson
Chief Accountant

Charlotte K. Gaal
Counsel

Carol L. Hoekje
Counsel

Ileana N. Saros
Counsel

Justin J. Dintino
Chief, Organized
Crime Intelligence

Helen K. Gardiner
Assistant Director

James J. Morley
Executive Director

Robert J. Clark
Deputy Director

Thomas W. Cannon
Executive Assistant

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INTRODUCTION

The New Jersey State Commission of Investigation (SCI) was created after extensive research and public hearings conducted in 1968 by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. That Committee was under direction from the Legislature to find ways to correct what was a serious and intensifying crime problem. Its final report, which confirmed that a crisis in crime control did exist in New Jersey, attributed the expanding activities of organized crime to "failure to some considerable degree in the system itself, official corruption, or both." Sweeping recommendations for improving various areas of the criminal justice system were proposed.

The two most significant recommendations of the Committee were for a new State criminal justice unit in the executive branch and an independent State Commission of Investigation. The Committee envisioned the proposed criminal justice unit and the Commission of Investigation as complementary agencies in the fight against crime and corruption. The criminal justice unit was to be a large organization with extensive manpower and authority to coordinate and conduct criminal investigations and prosecutions throughout the state. The Commission of Investigation was to be a relatively small but expert body which would conduct fact-finding investigations, bring the facts to the public's attention and make recommendations to the Governor and the Legislature for improvements in laws and the operations of government.

The Committee's recommendations prompted immediate supportive legislative and executive action. New Jersey now has a Criminal

Justice Division in the Department of Law and Public Safety and an independent State Commission of Investigation, which is structured as an agency of the Legislature. The new laws were designed to prevent conflict between the functions of the Commission and the prosecutorial authorities of the state. The latter have the responsibility to seek indictments or file other charges of violations of law and bring the violators to justice. The Commission, on the other hand, has the responsibility to expose wrongdoing or governmental laxness by fact-finding investigations and recommend new laws and other remedies to protect the integrity of the government process.

Legislation creating the State Commission of Investigation was introduced on April 29, 1968, in the Senate. Legislative approval of that measure was completed on September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969, and ending December 31, 1974. The Legislature on three subsequent occasions extended the term of the SCI for five-year periods--in 1973 for a term expiring December 31, 1979; in 1979 for a term expiring December 31, 1984; and in 1984 for a term expiring December 31, 1989. (While this report was being prepared, Governor Kean signed legislation extending the Commission to December 31, 1994.)

The complementary role of the SCI was noted in two comprehensive, impartial analyses of the Commission's record and performance--in 1975 by the Governor's Committee to Evaluate the SCI and in 1983 by the State Commission of Investigation Review Committee. Both of these reports stated that the SCI performs a valuable function and

that there is a continuing need for the Commission's work. The 1983 review panel said its advocacy of the Commission was reinforced by the views of top law enforcement officials in the State that the SCI "continues to serve as an important adjunct to New Jersey's criminal justice system."

To eliminate any appearance of political influence in the Commission's operations, no more than two of the four Commissioners may be of the same political party. Two Commissioners are appointed by the Governor and one each by the President of the Senate and the Speaker of the Assembly. It thus may be said the Commission by law is bipartisan and by concern and action is nonpartisan.

The paramount responsibilities vested in the Commission are set forth in its statute:

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

(a) The faithful execution and effective enforcement of laws of the state, with particular reference but not limited to organized crime and racketeering;

(b) The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;

(c) Any matter concerning the public peace, public safety and public justice.

The statute provides further that the Commission shall conduct investigations by direction of the Governor, by concurrent resolution of the Legislature, and of any state department or agency at the request of the head of the department or agency.

The statute assigns to the Commission a wide range of responsibilities and powers. It may compel testimony and the production of other evidence by subpoena and has authority to grant immunity from prosecution to witnesses. Since the Commission does not have prosecutorial functions, it is required to refer information of possible crimi-

nality to the appropriate prosecutorial authorities.

One of the Commission's responsibilities, when it uncovers irregularities, improprieties, misconduct or corruption, is to bring the facts to the attention of the public. The objective is to promote corrective actions. The format for public actions by the SCI is based on the complexity of the subject and the clarity, accuracy and thoroughness with which the facts can be presented. The Commission may proceed by way of a public hearing, a public report, or both.

The Commission in its proceedings adheres to the New Jersey Code of Fair Procedure, the requirements of which were incorporated in the Commission's enabling law in 1979. These provisions afford the protections which the Legislature by statute and the Judiciary by interpretation have provided for witnesses called at private and public hearings and for individuals mentioned in the Commission's public proceedings. Such procedural obligations include a requirement that any individual who feels adversely affected by the testimony or other evidence presented in a public action by the Commission shall be given an opportunity to make a statement under oath relevant to the testimony or other evidence. The statements, subject to determination of relevancy, are incorporated in the records of the Commission's public proceedings. Before undertaking a public action, the Commission evaluates investigative data in private in keeping with its obligation to avoid unnecessary stigma and embarrassment to individuals.

The Commission emphasizes that indictments and convictions which may result from referral of criminal matters to other agencies are not the only test of the efficacy of its public actions. More important are the corrective statutory and regulatory reforms spurred by arousing public and legislative interest. The Commission takes particular pride in all such actions which have resulted in improved laws and governmental operations.

I

PUBLIC ACTIVITIES

The Commission in 1988 held a three-day public hearing on organized crime intrusion into the check cashing industry and issued a report on its findings, issued a public report on the Green Acres acquisition of the Union Lake property in Salem and Cumberland Counties and held a two-day public hearing on cocaine.

CHECK CASHING

The SCI's inquiry into New Jersey's check cashing industry began after the Commission received information from law enforcement authorities about questionable transactions that were being processed by specific check cashing entities. The evaluation of data collected indicated that certain check cashers, licensed and unlicensed, were being used for nefarious purposes including 1) evasion of federal and state income, sales and other taxes, 2) bankrupting of companies, 3) defrauding of corporate stockholders and creditors, and 4) laundering of cash obtained from gambling, narcotics, embezzlement, extortion, loansharking and other illegal activities. These preliminary findings indicated that the industry was being subverted both by unscrupulous entrepreneurs for tax evasion and other fraudulent purposes and by members or associates of organized crime factions operating in Northern New Jersey and New York.

On September 10, 1986, the Commission passed a resolution defining the scope and objectives of this investigation as follows:

Whether the laws of the State of New Jersey are being faithfully executed and effectively enforced with reference to the check cashing industry;

whether such laws are adequate to protect public justice and the interests of the people of New Jersey; and whether, and to what extent, the check cashing industry has been infiltrated, perverted, adversely affected by or utilized for the benefit of various individuals, groups and entities engaged in organized criminal activity or racketeering.

Privately operated check cashers serve vital social and economic functions by providing thousands of people who do not or cannot use regular banking facilities with their only alternative for cashing Social Security and other government benefit checks and payroll checks. The industry has been regulated by the New Jersey Department of Banking since 1951. The regulatory process involves the licensing of check cashers, requirements for bookkeeping and for periodic reporting to, and audits by, the regulators, and establishing reasonable limits on check cashing fees.

The Commission's investigation was highlighted by extensive field work during which every licensed check casher was visited at least once and by an exhaustive review of books and records, including hundreds of thousands of checks. More than a score of the more questionable enterprises were monitored by SCI agents on numerous occasions. At least 70 witnesses were interviewed in the field by SCI investigators and questioned by the Commission at its office.

A public hearing on the subversion by organized crime and other unscrupulous elements of the check cashing industry was held on April 26, 27 and 28, 1988. Some 35 witnesses, several of whom exercised their Fifth Amendment right to refuse to

answer questions, were subpoenaed for appearance at the public hearing. About 160 exhibits were assembled for the public hearing, including excerpts from sworn private testimony which were read into the public hearing record when certain witnesses refused to answer questions.

The State Banking Commissioner testified regarding the many complex regulatory problems of the check cashing industry and how the process could be improved. The Commission also heard from victims of the unscrupulous where the utilization of the check casher facilitated misconduct and greed leading to excessive and unlawful fees, as well as to embezzlement and bankruptcy. Finally, check cashing enterprises which had been infiltrated by organized crime figures to launder money, to finance loansharking and to evade taxation were exposed. The hearing also highlighted the involvement of out-of-state mobsters -- from New York and Pennsylvania -- using New Jersey check cashers to provide cash for a variety of illegal activities including loansharking and money laundering. Witnesses outlined scenarios concerning members and associates of the Gambino and Genovese organized crime families in New York who profited from the willingness of certain New Jersey check cashers to accept without question checks of New York corporations, many with obviously fictitious payees. The checks could not have been cashed in New York because they either exceeded that state's statutory limit of \$2,500 or because New York check cashers found it difficult or impossible to deposit checks made payable to corporations into their own bank accounts because of banking procedures. Mobsters and independent swindlers found it to be very lucrative to transact their check cashing business in New Jersey, if for no other reason than to shield huge sums of money from federal or New York State tax agencies. The generation of cash for other illegal purposes was also highlighted. Testimony also revealed scenarios involving the Bruno/Scarfo organized crime family from Philadelphia and South-Central New Jersey.

The investigation disclosed that some persons associated with illegal check cashers in the last several years have met violent and untimely deaths or have been questioned in murder investigations. The SCI counted at least nine such instances and there could be more. The Commission did not suggest that any of these deaths occurred because of check cashing, but only intended to make the point that a segment of the illicit check cashing industry is populated by persons with extremely unsavory backgrounds.

The SCI's investigative accountants played a significant role in the check cashing probe because of the need to review not only the books and records of check cashing entities but also the records of their customers. Many customers were corporations, frequently out-of-state and thus beyond the Commission's jurisdiction. In many cases, the few books and records that were available were inadequate for auditing purposes. The accountants were responsible for scanning literally thousands of cancelled checks as part of the Commission's dissection of a multitude of questionable transactions. In addition, the SCI's accountants and special agents reviewed the records of the Department of Banking, federal and state court records, bankruptcy files, and local, county, state and federal agency files. The Commission staff also conducted background investigations on dozens of check cashers, past and present, licensed and unlicensed, and on their customers. According to the testimony of the accountants, many of the customers of check cashing entities were corporations who for the most part had bank accounts but were nonetheless cashing receivables (checks payable to their businesses) at check cashing outlets. Earlier testimony had suggested that certain marginal businesses could not cope with check clearance restrictions imposed by banks and had to use check cashers to maintain a cash flow essential to their operation.

The statement of Chairman Patterson at the conclusion of the public hearing on April 28 high-

lighted the three days of hearings. Patterson said that the record "leaves no doubt that organized crime has taken profitable advantage of New Jersey check cashers and that illegal and otherwise questionable transactions have become commonplace." His statement will be excerpted here as a recapitulation to promote an understanding of the basis for the formal reform recommendations that follow:

CHAIRMAN PATTERSON: A recital at this point of merely a few of the revelations disclosed by witnesses confirms that the New Jersey check cashing industry's huge cash flow -- it is a billion-dollar business conducted by only 80 or so licensed entrepreneurs -- is being tapped at will by mobsters and other unscrupulous individuals, a number from New York, whose objectives include such notorious activities as money laundering, income tax evasion, embezzlement, loansharking, "bust-outs" and other frauds.

For example, we have heard testimony about a factor¹ facing bankruptcy because check cashers cashed phony business receivables amounting to over a million dollars that the factor purchased at a 10 per cent discount.

...We have heard witnesses describe how corporate checks cashed at check cashers were used to make kickbacks to a so-called WGA -- the abbreviation for "wise guy association," wise guys being underworld jargon for organized crime operatives.

...We have heard witnesses describe how corporate checks were cashed at check cashers for the purpose -- proven by the SCI's examination of books and records -- of diverting "vigorish," the mob word for usurious interest, to underworld loansharks either in this state or across the Hudson River in New York.

...We have heard an organized crime associate concede that he has operated for almost

20 years as an unlicensed check casher, all the while promoting schemes through friendly licensed check cashers that had all the elements of check kiting, money laundering and/or loansharking.

...We have identified through sworn testimony the operation of at least three state-licensed check cashing outlets which are controlled by an individual with close ties to the Genovese organized crime family in New York.

...We have heard testimony linking New Jersey check cashing transactions to possible frauds by importing-exporting companies of a magnitude of a million dollars or more.

...We have heard New York mobsters talking -- by means of tapes of their conversations that were recorded during law enforcement surveillance -- about utilizing New Jersey check cashers for certain fraudulent purposes and the need to enlist the assistance of a New Jersey check casher confederate.

...We have heard a witness concede that a known mob figure apparently tried to gain control of a check cashing entity by granting him a no-interest, no-pay-back loan and giving him office equipment with which to get started.

...Also, there was the case of the unlicensed check casher, a known organized crime associate, who exploited the state regulatory system as an employee of a licensed check casher.

The scenarios described under oath at the public hearing belied a generally accepted view that the check cashing industry exists only to process the small transactions of people who need to cash government benefit checks or payroll checks but who do not use banks or other financial institutions. Instead, the testimony confirmed the widespread use of licensed check cashers' facilities by corporations and obviously cash-loaded individuals who want to avoid the more stringent -- and more thor-

¹ A person or company who purchases receivables of another at a discount.

oughly enforced -- regulations and laws that govern transactions at banks and other major financial institutions.

Almost all of the large transactions at check cashers spotlighted by public hearing testimony had been tainted by questions of impropriety at best and outright fraud at worst. Indeed, bad checks were accepted by check cashers so often that some customers obtained what amounted to easy loans of hundreds of thousands of dollars, which could have been used to finance mob activities such as loan-sharking or kickbacks. And countless checks for more than \$10,000 were processed without the submission of Currency Transaction Reports, or CTRs, which are required by federal law primarily to deter money laundering and income tax evasion. Further, countless corporate and other third-party checks had been cashed, an activity that opened the door to embezzlement and other frauds.

The Commission issued its public hearing report and recommendations in August. The corrective proposals were designed to 1) protect the traditional, almost captive, non-banking clientele of the check cashing industry, 2) strengthen the regulatory system of the State, and 3) criminalize certain activities in order to enhance law enforcement efforts against the incursion of the industry by organized crime.

The Commission proposed the following recommendations for statutory and regulatory reform of the system governing check cashers, with one all-important prefacing admonition: Grant the State Department of Banking sufficient funding to enlarge its inspection and investigation staffs so that, at the very least, a more thorough review of licensing applications can be made and more spot audits of individual check cashing entities can be conducted. The corrective steps proposed by the Commission can be successfully implemented only if the Department is able to monitor the industry more closely than has been the practice.

To curtail the insidious impact of organized crime and fiscal swindlers on the industry, the Check Cashing Law should be strengthened by the enactment of a number of new provisions in the New Jersey Code of Criminal Justice. The Commission urged the following transactions be made criminal offenses:

- Any cashing of checks for a fee or gratuity by an unlicensed check casher. (This offense should be graded according to the dollar amount of the checks cashed.)
- Cashing of any check made payable to a payee other than a natural person, thereby eliminating any checks made payable to a business, trade name, trade logo, etc.
- Operating or utilizing a licensed check casher to further any unlawful activity, including check kiting or other abuses of the float period required by traditional financial institutions for the clearance of checks in transit.
- Any activity by a person or entity, including banks, which facilitates the commission of a criminal act by a licensed or unlicensed check casher.
- To further strengthen anti-crime controls over the industry, a criminal money laundering statute should be enacted that would also prohibit check cashing transactions which facilitate criminal activity.

The SCI recommended that the Legislature authorize the Department of Banking to adopt regulations to:

- Prohibit the cashing of any check in a dollar amount exceeding a specified limit, subject to exceptions for instruments such as government, certified and insurance checks.

- Increase penalties for "fee gouging" and strengthen their enforcement.

Additionally, the Commission recommended the following corrective actions of an administrative nature:

- Increase the Banking Department's fees for investigations from the present \$200 per diem for each examiner, depending upon the complexity of an inquiry and the size of the entity under scrutiny.
- Require that all transactions be either photographed (regiscope) or microfilmed.
- Require that the check cashing privileges of any customer who presents checks that bounce more than three times within a year, or who presents bad checks totaling more than \$3,000 during the same period, be suspended and that such incidents be reported in writing to the Department of Banking.
- Require that licensed check cashers keep books and records, including Currency Transaction Reports (CTRs), for a minimum of five years. Require that copies of CTRs be filed with the State Division of Taxation.
- Require that receipts be given to customers showing the check cashing fee paid and amount of the transaction.
- Simplify the licensing procedure, primarily to increase the number of check casher licensees.

The public hearing and report generated wide interest. They have resulted in scores of requests for information from law enforcement agencies as well as a large number of official referrals to law enforcement agencies. Other states and federal authorities in Washington, D.C. have contacted the Commission for information and assis-

tance relative to problems they have found in their jurisdictions. Inquiries to the Commission and its assistance to federal and state law enforcement agencies continues, and criminal and administrative investigations are underway. Legislative and regulatory movements have begun and the Commission remains hopeful that approval will be gained and reform will be forthcoming.

UNION LAKE

As a result of the SCI's findings and recommendations regarding the State's purchase of Union Lake, the State Department of Environmental Protection has substantially revamped many of its internal procedures in the acquisition of properties under its Green Acres program. In addition, the Attorney General has filed a civil complaint to recover damages and costs incurred by the State as a result of the property acquisition.

The Department has also improved its procedures for obtaining legal advice in substantive as well as procedural areas. These include both increasing the size of its own internal legal department and seeking more detailed, specific advice from the Division of Law in the Attorney General's department. Minutes are now kept on senior staff conferences regarding land acquisition so that a permanent record of these proceedings is maintained and available to anyone involved in Green Acres purchases. Additionally, the Department's priority ranking system has been changed to solicit outside advice.

Union Lake, the largest lake in southern New Jersey, is an 800-acre impoundment created by a 110-year-old earthen dam across the Maurice River near Millville in Cumberland County. On June 25, 1982, the State acquired the lake as part of a 4,617-acre purchase of land in Cumberland and adjacent Salem Counties from the WaWa Corporation of WaWa, Pennsylvania. The purchase price was \$3.1 million, of which \$1.8 million came from state bond funds, the remaining \$1.3 million from the Federal Land and Water Conservation Fund.

When the State bought the land in 1982 it was unaware that the dam was in such a dangerous condition it would cost some \$15 million to rebuild it. WaWa officials knew, however, but they refused state demands to turn over an engineer's report on the matter. Inexplicably, in the face of this refusal, Green Acres still proceeded with the purchase. The extent of arsenic contamination of the lake bed, which was known to many staff members in DEP but ignored by Green Acres officials, contributed to the high cost of the dam reconstruction.

On December 17, 1986, the Commission authorized an inquiry into the extent to which the process for acquiring Union Lake "may have failed adequately and properly to solicit and consider" data about the condition of the site. More specifically, the SCI's inquiry was to focus on "whether and to what extent information regarding the condition of the dam at Union Lake and possible arsenic pollution of the lake existed and was known to the DEP at the time of the acquisition and whether acquisition procedures under the Green Acres Program are adequate in general with respect to the process by which external criteria are solicited, examined and considered."

The SCI probe, which included the sworn testimony of 15 witnesses, interviews with at least 30 persons and scrutiny of more than 26,000 pages of records and exhibits, focused on certain crucial issues. These included 1) whether sufficient data about the condition of the dam and the presence of the arsenic had been obtained and incorporated by DEP and its Green Acres staff into the conclusions that led to the formal sale to the State, 2) whether WaWa had purposely withheld relevant information that might have revealed problems related to the dam repair and arsenic contamination issues requiring a larger financial obligation on WaWa's part, and 3) whether DEP's acquisition procedures were adequate and properly implemented to promote the integrity of the Green Acres acquisition program and the public interest.

The Commission's investigation was conducted with the cooperation of DEP, particularly its Green Acres personnel. The SCI staff had access to witnesses and records relative to all aspects of the Union Lake transaction except from WaWa, a Pennsylvania corporation, which produced some documents but no witnesses. Because the Commission's subpoena power does not extend to out-of-state witnesses, the Commission had requested their voluntary appearance. Since all relevant witnesses connected with WaWa live outside New Jersey, the staff was never able to interview, even on a voluntary basis, any present WaWa officials despite repeated requests to their attorneys. The staff, therefore, was unable to look at the transaction from WaWa's viewpoint except through the few corporate documents produced by a subpoena served on WaWa's corporate agent in New Jersey.

Union Lake's dam was built in 1866-68 at a point on the Maurice River about 13 miles above Delaware Bay. It consists of an earthen embankment and a masonry spillway and is about 2,000 feet long and 35 feet high at the embankment. After an inspection in 1978, the dam was classified as a "high hazard" structure of intermediate size by the Army Corps of Engineers, based on technical criteria as well as on the potential for loss of life and property in the event of failure. (A school, a trailer park, a senior citizens residence and homes are downstream.) At the time of the Green Acres purchase, the land surrounding the lake was largely undeveloped except for the eastern shore, where there is a development of single-family homes built in the late 1960's by the Maurice River Company, a WaWa subsidiary. A small beach on the eastern side of the dam had been conveyed to the City of Millville.

About 11 miles upstream from Union Lake is the Vineland Chemical Company (Vichem), a manufacturer of arsenical pesticides. This company has been identified by DEP since the 1960's as the source of arsenic contamination of various sections of the Maurice River, including Union Lake, down

to the Delaware Bay. Vichem has been the subject of an extensive series of administrative actions and lawsuits by DEP and its predecessor Department of Conservation and Economic Development. DEP has revoked Vichem's operating permits but the revocation is under appeal. Whatever the record of the Department's prolonged attempt to eliminate the pesticide company's poison discharges -- and it is an ample record -- it was inexplicably disregarded by DEP during the State's negotiations.

The State's interest in buying Union Lake goes back nearly 30 years to 1960, when the Division of Fish, Game and Wildlife included the site on its priority list of hunting and fishing properties to be bought with funds from the first Green Acres bond issue. Coincidentally, a representative of the Maurice River Company, in the course of seeking an alternative to developing its property (which had proved disappointing), contacted DEP in 1978 about a potential purchase of the lake.

After it was decided to acquire the lake, Green Acres Administrator Curt Hubert almost singlehandedly negotiated on behalf of the State. He adopted from the outset what he and colleagues characterized as a "hands on" role, despite the pressure of numerous managerial responsibilities in running a complex division and despite the availability of subordinates with special negotiating experience and the existence of bureaus and/or sections specifically created to handle survey, appraisal, contracts, negotiation problems and other details.

The SCI, while critical of Hubert's deal-making dominance, emphasized that its inquiry found no improprieties in either his motives or his conduct throughout the two-year process. Nonetheless, that process was complicated by such factors as a deteriorating dam and continuing arsenic contamination of the lake bottom and the impact of these factors on the need for engineering, cost and other technical reviews and appraisals of the site. None of these critical technical issues were properly addressed during the negotiation process, issues which

would have affected the purchase price as well as the cost of implementing and safeguarding the ultimate use of the lake by the public.

As noted, the Union Lake dam had been inspected in 1978 by the Army Corps of Engineers. In September, 1978, the Corps forwarded its Union Lake Phase One Report to Governor Byrne with a copy to Dirk Hoffman, then Deputy Director of the DEP's Division of Water Resources. The report noted in part:

Union Lake Dam appears to be in a marginally adequate structural condition but substantial seepage was observed along the downstream embankment....The dam is over 100 years old and has withstood the test of time but sufficient engineering data was not available regarding the foundations, method of construction or zoning of embankment to allow a full assessment of its term adequacy. Further engineering studies in the near future are recommended without reservation. A collapse could cause irreparable structural damage to the dam and significantly endanger downstream residential areas which are quite heavily populated.

A copy of this report was also sent to the Dam Safety Section of the Division of Water Resources, which had jurisdiction over dams and was charged with follow-up and compliance. In February, 1979, the Section sent a copy of the report to WaWa with a cover letter requesting compliance with necessary follow-up requirements. On February 29, 1979, Frederick L. Wood, of the family that had founded WaWa, requested from DWR a 90-day extension of the compliance deadline set by the report for engaging an engineering firm to assess the Union Lake dam. On June 27, 1979, WaWa contracted with O'Brien & Gere Engineers (Justin & Courtney Division, Philadelphia, Pa.) to perform an investigative study of Union Lake dam as mandated by the Phase One report.

Dam Safety Section Chief John Moyle told the SCI that the section had "very little success" with respect to responses from dam owners in general on compliance letters and that the department lacked the necessary manpower to do follow-up enforcement. Moyle also attributed the lack of compliance to a combination of other factors, including delay in implementing a grant program to assist some publicly owned high hazard dams, and lack of funds on the part of private owners, including many small lake associations. Moyle added that the best repair work had been done on dams owned by the state and by water companies.

In February, 1981, Green Acres officially appraised Union Lake at \$3,324,600 for 5,755.2 acres, or \$577.66 per acre. The certificate stated: "Union Lake, which covers approximately 900-plus acres, has the only improvement on the entire property which is a 2,000 foot long [dam] constructed in 1868 but not completed until 1869." WaWa, which had also ordered an appraisal of the property, noted about the dam:

We have been advised that it is rated as a "yellow" dam by the DEP and that this characterization may mean some repairs are necessary. It is the appraiser's position that even at present Union Lake and Union [Lake] dam fulfill more of a public than personal need and that any repair to the dam should necessarily include public funds.

This observation concluded: "There are no negative items of concern under this heading." (The DEP document file contained only portions of the WaWa appraisal report pertaining to comparable land sales in the area, as was the customary procedure.)

The offer to purchase was submitted to WaWa on July 15, 1981, as a joint offer totalling \$4.1 million from the DEP and the nearby Landis Sewerage Authority--the DEP to pay \$2.5 million for its tract and the Sewage Authority to pay \$1.6 million

for its land. (Green Acres could not afford to pay for the entire tract and the Authority proposed to use its land in a manner beneficial to wildlife.) The offer to purchase did not specify the amount of land or location that each party would purchase.

In response to SCI subpoenas for books and records, WaWa withheld almost 4,000 pages of documents (the Commission received 15,000 pages) that applied to the period when Union Lake negotiations were underway and when the O'Brien & Gere engineering study of the dam was prepared and promptly cached. These missing pages included a number of minutes of the quarterly meetings of WaWa's Board of Directors. Indeed, the only reference to the dam itself, in the minutes WaWa did submit to the SCI, was on March 11, 1981, when the directors apparently agreed to "go forward with the sale of the lake and the dam." The company asserted the attorney-client privilege in justifying its retention of more than one-fourth of the papers requested. The Commission was unable to persuade any WaWa corporate executives to come to New Jersey to give sworn testimony about the Union Lake deal with the State.

As early as October, 1979, the State had been warned that WaWa, or the Wood family that owned WaWa, was eager to dispose of Union Lake because of the potential problem of rebuilding the dam. In a letter to the then-DEP Commissioner Jerry Fitzgerald English, South Jersey industrialist Frank H. Wheaton Jr., of Millville, sounded the alarm:

Whoever is going to do the negotiation for the State should realize that the basic reason I believe the Woods want to sell the lake and the land is that they foresee a sizeable amount of money having to be put up to repair the dam.

Even as the negotiations approached a contractual rapport, WaWa's refusal to release the O'Brien & Gere document was phrased in bluntly

candid terms. For example, Bureau of Fisheries Chief A. Bruce Pyle reported as late in the negotiations as May 6, 1982, in a memo to Hubert, that the Water Resources Division's dam safety expert Moyle had been directly rebuffed by WaWa. Pyle told Hubert that Moyle had sought to determine if WaWa had complied with the State directive for an engineering study of the dam. Moyle was told a report (O'Brien & Gere's) had been completed but that it could not be released without permission from WaWa. Pyle added that the WaWa Company had informed Moyle that it "would not release the results because it may jeopardize negotiations with the State over the sale of the lake and adjacent property." Pyle concluded his memo to Hubert with the statement, "I leave it to you to decide what to do."

According to the fragmentary information in DEP files on WaWa's the extent of compliance with the directive to undertake an engineering study of the Union Lake dam, it was never even suggested to WaWa that the deal would be cancelled unless WaWa produced the O'Brien & Gere document.

The O'Brien & Gere report actually was not completed until September 15, 1980. It was entitled, "Investigation of Union Lake Dam," and it detailed findings and conclusions on only three aspects of the Union Lake dam -- 1) hydraulic adequacy of the spillway, 2) seepage through the embankment, and 3) stability of the embankment. The critical issue of the stability of the spillway was not addressed. The State was not to learn the details of the WaWa report until May, 1983, 11 months after it had acquired not only the lake but also a \$15 million dam reconstruction obligation.

The O'Brien & Gere report was not delivered to the State until a year after WaWa and DEP signed the agreement of sale for the Union Lake deal. Indeed, the Division of Water Resources did not even request a copy of it until March 29, 1983. There is no official explanation for the long delay in obtaining a document that WaWa kept secret throughout the Union Lake negotiations.

The DEP's files revealed that every now and then negotiator Hubert asked about the dam and received responses that should have made him much more inquisitive, particularly in view of his years of experience with Green Acres acquisitions. The record shows he was alerted early and often during the negotiations that Union Lake was a problem. Nonetheless, Hubert testified that he could not recall the condition of the dam being raised during negotiations.

On July 31, 1980, Hubert sent the following note to Arnold Schiffman, Director of the Division of Water Resources:

The Department is considering the purchase of Union Lake in Millville. One of the important considerations in that acquisition is the condition of the lake's dam. We understand it was inspected and received a yellow rating. It would be helpful if you could provide us with additional details on just what that means, in terms of probable trouble within the foreseeable future.

Schiffman's answer, on August 8, 1980, consisted of a one-page single-spaced summary of the dam as an issue in the transaction.

He noted the dam's "high hazard" classification, noted the Phase One inspection results as "in fair overall condition", with "some seepage", and "inadequate spillway", and concluded: "However, the long-term stability [of the dam] remains extremely doubtful until further studies are completed." The events reviewed by the SCI investigation showed that this recommendation to await further studies from within the Department was ignored by Hubert.

The Schiffman memorandum served as the basis for Hubert's "interpretation" of the condition of the dam at Union Lake. According to Hubert, he proceeded with his negotiations based upon this memorandum and additional conversations he had with Schiffman about the dam. Hubert never con-

sidered obtaining an independent evaluation of the dam because, in his mind, his "experts" had provided an acceptable evaluation. To Hubert, "close to \$1 million dollars" was an acceptable estimate for dam "improvement," as he put it. Hubert contended that his superiors knew about the repair estimate but he was unable to document the contention.

Aside from addressing the condition of the dam, the Department's files contained much information relating to arsenic contamination of the lake. This information included DEP and Department of Health testing records, DEP Enforcement Bureau allegations, legal briefs and memos, opinions or decisions in judicial and administrative actions, letters to and from concerned citizens, and results of scientific and environmental studies. In addition, many newspaper articles reported the presence of arsenic in the lake and also quoted various DEP officials on the issue.

This information was never collated, expanded or evaluated for its impact on the price of the acquisition and on the lake's future management and maintenance. Instead, Green Acres summarily dismissed the arsenic problem at an early stage of the negotiations. As with the issue of the dam, no one involved in the deal remembered asking WaWa about its potential obligations for resolving arsenic poison problems, nor, of course, did the owners apparently ever voluntarily raise the issue.

As a result of DEP's failure to assess the present and future impact of arsenic contamination prior to buying Union Lake, the State was confronted with increased costs (in the millions of dollars) for dam repairs that were not even partially factored into the \$3.1 million it paid WaWa for the tract. In addition, the contamination now confronts the State with on-going expensive and time-consuming attempts to, at long last, halt further pollution and to eliminate what risks remain so the lake can be returned to public use.

COCAINE

In November, 1988, the Commission held a two-day public hearing to focus attention on various aspects of problems associated with the cocaine crisis that grips our nation. The Commission was well aware when the hearing began that much had already been written and said about the problem and much was already being done about it as well. But the problem was and remains so serious that the Commission felt it should contribute its own expertise and whatever special insights it could to the public dialogue on the crisis.

On the first day of the hearing the Commission heard testimony from agents of the Federal Drug Enforcement Administration regarding the international ramifications of the cocaine problem and how it affects New Jersey. DEA agents also discussed how cocaine is transported from South America to South Florida and to New Jersey. Because New Jersey is considered the transportation hub for the east coast, much cocaine destined for the rest of the eastern seaboard comes through our state, especially through Port Newark, the largest container shipping port in the nation. The means used to smuggle the drug is limited only by the imagination of the smugglers. The DEA agents described one incident in which 5,000 pounds of cocaine were encased in lead, then hidden inside 780 separate cartons of ostensibly solid chocolate so as not to be discoverable by drug-sniffing dogs. The 780 cartons were intermixed with 1,500 boxes.

All the cocaine coming into the United States comes from South America, principally Bolivia, Peru and Colombia. Much of it is grown in Peru and Bolivia, but Colombians control the distribution. The two principal groups involved in the distribution are cartels that take the names of the cities in Colombia where they are located -- Medellin and Cali. The Cali group controls much of the importation into the New Jersey-New York area, but the Medellin cartel, the larger of the two groups and that which controls much of the trade elsewhere in the

nation, is trying to displace the Cali group. Bloodshed frequently results from this rivalry.

Unlike some other organized crime groups, the cocaine cartels are difficult for law enforcement to infiltrate because of their tendency to deal, as much as possible, only with blood relatives or people known to them from their hometowns in Colombia. Most of the operatives in this country, moreover, have relatives in Colombia who face certain execution if the cartel is betrayed.

Officials from Broward County, Florida, discussed their experiences fighting cocaine trafficking and the corruption that inevitably follows it because of the huge amounts of cash generated by the business. In scenes reminiscent of the old west, some police officers in Florida, for instance, have been recruited by drug traffickers to "ride shotgun" to protect loads of cocaine in transit from being hijacked by rival gangs. In other cases, officers have been known to battle one another over drugs confiscated from murder victims, leaving the bodies on the street.

Representatives of the State Divisions of Criminal Justice and State Police, the component agencies of the Attorney General's Statewide Narcotics Task Force, testified at the hearing regarding their efforts in New Jersey to stem the flow of the drug, their priorities and their general strategies for the future. The state's definitive drug enforcement policies are contained in the State Narcotics Action Plan, a document prepared jointly by Criminal Justice, State Police and the 21 county prosecutors to detail how New Jersey's tough new drug laws should be enforced. That plan calls for strategies that go beyond rudimentary "buy-bust" tactics to target major suppliers and kingpins. In order to do this, however, intelligence on the organized groups involved in cocaine distribution such as Jamaican posses, Colombians and the Sicilian Mafia must first be gathered, then analyzed to determine their structure and organization so they can be attacked systematically.

Testimony on the afternoon of the first day focused on the law enforcement and social problems of dealing with cocaine in New Jersey's cities. The mayor of Newark, a state assemblyman from Camden, the public safety director of Trenton and the prosecutor of Hudson County laid out in graphic and fascinating detail their individual problems and provided insights into what they felt could be done to improve the state's efforts to cope with cocaine.

All agreed that economic and social conditions must be addressed in conjunction with, not separate from, the law enforcement problems. It is difficult, for instance, to convince an inner city youth to take a menial, low paying job at little more than the minimum wage when that youth could make hundreds to thousands of dollars per week selling crack or cocaine. This is especially true when that youth is selling drugs not just to satisfy his own desire for material possessions but when he is trying to provide for his family as well. From the standpoint of the law enforcement officer, it does little good to arrest drug dealers when jails and state prisons are already filled beyond capacity. Prosecutors are forced to downgrade offenses because they know a custodial sentence would only aggravate the overcrowding. And the mandates of the tough drug laws are thus being compromised almost daily. Meanwhile, the streets are becoming increasingly dangerous; honest citizens fear for their safety. And the morale of the police is deteriorating because of frustration over their inability to protect the public.

Testimony on the second day of the hearing was wide-ranging. It included SCI special agents discussing how various non-traditional organized crime groups such as Colombians, Jamaicans and the Sicilian Mafia control the cocaine traffic in New Jersey. In an intelligence gathering project over several years, SCI special agents have attempted to identify and structure non-traditional organized crime groups operating in New Jersey, especially those involved in cocaine trafficking. The agents identified at least 11 Colombian groups, three Jamaican posses and a faction of the Sicilian Mafia. Of the

Colombians, 301 are believed to be members of organized groups, 77 are associates; there are 184 members or associates of the Jamaican posses, and 80 members or associates of the Mafia. This total of 642 operatives contrasts with 265 identified members of La Cosa Nostra (LCN) and 661 associates, a total of 817. Despite these startling figures, many law enforcement agencies in New Jersey continue to focus their organized crime resources toward the LCN and have largely ignored the newer groups. Certainly, part of the problem is lack of knowledge of these new groups but sometimes too there has been a reluctance to accept the challenge of tackling a new problem.

All three of these newer groups are considered extremely violent. The Mafia has long been known to murder informants and even some justice officials in their homeland. Their violence, however, is not generally indiscriminate and has not been transferred wholesale to this country. The Jamaicans, on the other hand, murder not only informants or rivals but have been known to shoot up entire blocks or street corners in the cities in retaliation for some real or perceived treachery or injustice. Jamaicans, always heavily armed, are extremely mobile and rootless, operating literally all over this country, using many different forms of identification and many aliases. Colombians have been extremely violent in their own country, murdering politicians, judges, police officials, journalists and any others that threaten their illicit activity. In the United States, they have been involved principally as high level suppliers to groups such as Jamaicans and others who sell directly on the streets. More recently, however, they too have become more involved in street level sales.

Three juveniles and an adult, all of whom have run afoul of cocaine, told the Commission how the drug has affected their lives. All testified about experimenting with drugs, eventually becoming addicted to cocaine and, in one case, to heroin as well. All committed crimes to get money to buy

cocaine. And all emphasized the need for treatment and the need to avoid their old haunts and neighborhoods after treatment.

The founder of the national cocaine hotline, Dr. Mark Gold, testified in frank and truly frightening terms about the physiological impact cocaine has on the human body. But perhaps the most sensational testimony came from a hooded witness, a Latin American insider in the cocaine rackets, who told the Commission about some of his own experiences including instances of corruption involving the way some police in New Jersey deal with suspected drug traffickers.

At the conclusion of the two-day hearing, Chairman Patterson said in a statement:

These last two days we have heard testimony that I think can best be described as frightening. It is frightening because of our seeming inability to keep cocaine out of the United States, let alone New Jersey. And it is frightening in terms of the physiological effect cocaine has on those who use it.

We have heard, for instance, about the extent of the organization of the cocaine traffickers of various ethnic backgrounds and about the ruthless brutality of those persons.

Because all these groups try to deal only with blood relatives, they become more difficult to infiltrate than other criminal organizations. It is for this reason that it is more imperative than ever for law enforcement to understand as much as possible the structure of these non-traditional organized criminal groups.

As we have heard, these new groups are perhaps more violent than the American La Cosa Nostra (LCN) in that they do not hesitate to murder high ranking government

officials, journalists or anyone else who might be a threat to their lucrative business.

Our best intelligence is that there are at least 11 Colombian cocaine cartels operating in New Jersey. In addition, there are three Jamaican "posses" here and various factions of the Sicilian Mafia. The Mafia has relationships with the American LCN but does not take orders from it and is in no way subservient to it.

The emergence of these forces in criminality has changed the face of organized crime and has, in some areas, confounded law enforcement. Moreover, internal disputes within each of these groups sometimes result in violence that frequently spills over into other areas of society. Especially vulnerable to this violence are residents of the inner cities where much of the trafficking takes place as well as police officers investigating narcotics violations.

Dr. Mark Gold, who is a nationally-recognized expert in this area, has testified about the truly devastating effects cocaine has on the human body. I wish every citizen of this state could have heard his remarks.

But there are some things we can take now from these hearings and some tentative recommendations we can make that this Commission feels will have an impact on dealing with some of the problems caused by cocaine.

-- Cocaine should not be legalized, decriminalized or its use encouraged or tolerated in any way. Based on the medical evidence, as well as on law enforcement considerations, it is not a substance that should be permitted in our society. Even to discuss legalization at this time is strategically unwise. The momentum is building in society to deal

with the problem seriously. Any discussion about legalization is a diversion that would only reduce that momentum.

-- Law enforcement must develop an intelligence data base regarding non-traditional organized crime so that it can more effectively prosecute cocaine traffickers. Police and prosecutorial agencies must use the same legal and tactical weapons against the Colombians, Jamaicans, Sicilians and others that they are now using so successfully against the American LCN. But without the proper intelligence, especially a knowledge of the non-traditional criminal organizations, those weapons will not be effective.

-- The state should create an information network which would analyze such data as drug-related emergency room incidents and deaths, drug hot-line information and drug arrests by type of drug. This information and analyses would be provided to all relevant agencies to assist them in planning strategies. This data source will give law enforcement a better handle on the location of specific problems so that police agencies can mobilize quickly if the need is there.

-- The state should develop specific strategies for dealing with problems peculiar to the inner cities, including problems relating to education, treatment for substance abuse and coordination of law enforcement efforts. So much of the population of the cities is poor and there is so much money to be made selling cocaine or crack that it is difficult to deter young people especially from selling drugs. Additionally, the cities need more economic assistance to help them cope with the social conditions that lead inner city residents to use drugs.

-- Although the state is expanding its prison capacity to handle increased arrests from

drug offenses, the system is still inadequate to deal with the problem. The state still has too many prisoners in county jails and those jails are themselves inadequate. The state's new, tough statute to deal with drug offenders is being undermined by the setting of low bail and by prosecutors who, faced with an already overloaded court docket, downgrade charges to secure guilty pleas.

-- Health and social agencies, as well as the schools, must identify drug users as early as

possible to improve their chances for successful treatment. And that treatment must be sufficiently intensive and lengthy to do the job. The treatment should include adequate drug testing and after-care.

(The Commission's written report on the public hearing, which was issued in March, 1989, contained these and some additional recommendations.)

II

COMMISSIONERS AND STAFF

Commissioner James R. Zazzali and Justin J. Dintino, Chief of Organized Crime Intelligence, testified in Washington before the U.S. Senate Subcommittee investigating organized crime. Zazzali testified that while La Cosa Nostra has been weakened by the many recent prosecutions, it remains a threat. But an even greater threat, according to the Commissioner, are organized criminal groups from Latin America, Asia and even the Soviet Union. Also emerging as threatening groups are some American black gangs as well as some motorcycle gangs. Zazzali laid out for the Subcommittee details about each of the various groups operating in New Jersey.

...

During 1988, W. Hunt Dumont of Morristown, a former United States Attorney for New Jersey, was sworn as a Commissioner. The oath was administered by State Supreme Court Justice Stewart G. Pollock, himself a former SCI Commissioner.

...

Executive Director James J. Morley testified in January in opposition to a bill designed to meet some of the SCI's criticisms of the way boxing is regulated in New Jersey. Morley told an Assembly committee that the bill not only did not meet the Commission's criticisms but in some instances was contrary to some of the recommendations. The bill was enacted and signed into law.

...

Morley also testified before an Assembly

committee that was considering changes in the way independent and regional authorities do business. Morley's testimony was based on recommendations developed out of a 1982 public hearing that examined several kinds of abuses in the operations of such authorities. The recommendations were designed to eliminate political bias and cronyism in the operations and to improve the professionalism of the agencies.

...

Deputy Director Robert J. Clark appeared at several public forums at which the Commission's 1987 findings and recommendations regarding incompetent and impaired physicians were debated.

...

The Commission last year was contacted almost daily by telephone, mail and in person for various types of assistance by federal, state, county and local law enforcement agencies within New Jersey and by such agencies in other states. Additionally, the Commissioners adopted resolutions accommodating formal requests for information by federal, state and county law enforcement agencies, regulatory agencies and legislative committees. A number of referrals of evidence of criminal activities were also made by the Commission pursuant to its enabling law. SCI personnel processed scores of requests for law enforcement assistance during 1988.

...

Continuing close contact was maintained throughout 1988 with the office of the United States

Attorney for New Jersey, Samuel A. Alito, Jr. Such liaison included the submission of investigative findings, hearing transcripts and other data, as well as the same notices of the Commission's intention to immunize witnesses that are given to the State Attorney General and appropriate county prosecutors.

...

During 1988 the Commission continued its liaison with the Office of the Attorney General and various components of the Department of Law and Public Safety. Commission supervisory and legal personnel and the staff of the Attorney General's Office, particularly the Division of Criminal Justice, met on many occasions during the course of the year with regard to day-to-day activities.

...

The Commission takes pride in its close relationship with New Jersey's 21 county prosecutors

and their staffs. This linkage between prosecutors and the SCI is constantly reaffirmed as prosecutorial changes occur. Illustrative of this liaison was the Commission's continuing effort during 1988 to provide appropriate county prosecutors with the findings of various SCI inquiries.

...

The Commission continued its membership in various interstate organizations of a formal and informal nature which relate to its work. Additionally, the Commission received numerous requests for assistance on investigations from various law enforcement agencies throughout the nation. The Commission, in fulfillment of its statutory duty and in recognition of the importance of cooperation among the states in areas such as organized crime, responded to all such requests. The Commission itself also obtained assistance from various other states on matters of mutual concern with particular relevance to organized crime and racketeering.

III

PRIOR YEARS' ACTIVITIES

The following list summarizes the SCI's investigations, hearings and reports since the Commission began operations in 1969:

1969-72 Garbage Industry

The SCI recommended licensing members of the garbage collection industry. The Legislature enacted a law providing for licensing and regulating of the garbage industry by the State Public Utilities Commission, later the State Board of Public Utilities (BPU).

1970 Monmouth County Prosecutor's Office (Misuse of Funds)

The SCI recommended that all counties be served by full-time prosecutors. This proposal was gradually implemented, to the point where by 1986 all counties had full time prosecutors. The SCI recommendation that supervisory regulation of prosecutors be centered in the Attorney General's department was implemented.

1970-71 Organized Crime Control of Long Branch

The SCI referred to the U.S. Attorney for New Jersey its findings, data and fiscal records relating to corporations formed by Anthony (Little Pussy) Russo. These materials were in part the basis for a 1971 indictment of Russo for failure to file corporate income tax returns. Russo pleaded guilty to that charge and was sentenced to three years in jail, to run concurrently with a New Jersey

court sentence for perjury. (Russo subsequently was murdered).

Additionally, a police chief whose conduct was targeted by the SCI's probe resigned from office and Long Branch voters at the next municipal election following the public hearing elected a new administration.

1970-71 Corrupt State Purchasing Practices

A state buyer who was receiving payoffs from vendors was dismissed. SCI records were turned over to the Attorney General's office, which obtained an indictment charging the buyer with misconduct in office. He pleaded guilty, was fined and placed on probation.

Additionally, officials of the State Division of Purchase and Property, who assisted in the investigation, revised purchasing and bidding procedures to deter rigging of bids, renewal of contracts without bids, and acceptance of unsatisfactory performance and supplies.

1971-77 Building Service Industry Abuses

The Commission's investigation of restraints-of-trade and other abusive practices in the building service industry aroused the interest of the United States Senate Commerce Committee. The committee invited the SCI to testify at its 1972 public hearings on organized crime in interstate commerce. As a result of that testimony, the Antitrust Divi-

sion of the United States Justice Department, with assistance from the SCI, began an investigation into an association which allocated territories and customers to various member building service maintenance companies in New Jersey. In May, 1974, a Federal Grand Jury indicted 12 companies and 17 officials for conspiring to shut out competition in the industry. The companies were the same as those involved in the SCI's public hearings. On Oct. 25, 1977, the defendants agreed to a consent judgment to abandon the practices alleged against them. Earlier, the government's criminal action against the defendants was completed in March, 1976, by which time one company had pleaded guilty to the charges, the other defendants pleaded no contest. Fines totaling \$233,000 were levied.

Additionally, after the Senate Commerce Committee's hearings, the U.S. General Services Administration amended its regulations to bar purchases of certain cleansing products sold by organized crime figures (as exposed by the SCI investigation).

1971-72 Hudson County Mosquito Commission Embezzlements

After the SCI probe, the Mosquito Commission was abolished, resulting in an annual county budget reduction of \$500,000.

After the SCI referred its findings to the Hudson County Prosecutor, a County Grand Jury in 1971 handed up conspiracy and embezzlement indictments against the Mosquito Commission's executive director, his two sons, his secretary and the Commission's engineer and foreman. The executive director pleaded guilty to embezzlement in 1972 and was sentenced to two-to-four years in jail. His sons were fined \$1,000 each and placed on four-year probation. The other

indictments were dismissed.

1971-72 Point Breeze Development Frauds, Jersey City

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

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

1972 Stockton College Land Acquisition Deals

The State Division of Purchase and Property implemented SCI recommendations for tighter controls over land acquisitions and evaluations, including pre-qualification of appraisers and post-appraisal reviews by nationally accredited appraisers.

1972-75 Improper Municipal Planning, Zoning Procedures

The SCI cancelled scheduled public hearings after a one-day session because litigation prevented three key witnesses from testifying about land developments in Madison Township in Middlesex County. Although the courts subsequently ruled the witnesses must testify, the Middlesex Prosecutor in the meantime had requested the SCI to postpone its hearings and submit its inves-

tigative data for prosecutorial use. In early 1974 the Middlesex Grand Jury indicted three former Madison Township officials for extortion, bribery, misconduct in office and perjury in connection with housing development kickback schemes. In February, 1975, a former Township councilman was found guilty of extortion and misconduct in office.

1972-73 Bank Fraud in Middlesex County

The SCI cancelled public hearings in this investigation at the request of bank examiners who feared a bank would be forced to close in the face of adverse hearing disclosures. Federal authorities, after receiving the SCI's investigative findings and data, arrested Santo R. Santisi, who had been president of the targeted Middlesex County Bank, on charges of misapplication of more than \$500,000 in bank funds, authorizing bank loans not approved by bank directors to a holding company he controlled and to his associates. He pleaded guilty and was sentenced to three years in prison. A member of the bank's board of directors pleaded guilty and was sentenced to a one-year prison term. Suspended prison sentences were imposed on two others, including Santisi's lawyer, after they also pleaded guilty.

1972-80 Organized Crime in Ocean County

SCI records were made available to federal authorities, who subsequently obtained extortion-conspiracy indictments against nine organized crime figures active in the New York-New Jersey region. One was Frank (Funzi) Tieri, then the acting leader of the Genovese organized crime family. The indictments described a shylock loan dispute which culminated in a "sit-down" - organized crime jargon for a star-chamber trial — which was described publicly for the

first time by Herbert Gross, an informant, at the SCI's public hearings. The federal investigation resulted in the conviction in 1980 of Tieri, who by then had risen to "boss-of-bosses" among New York's organized crime families. An SCI agent testified for the prosecution during Tieri's trial.

1973-74 Workers Compensation Frauds

The SCI's investigative findings were referred to the Essex County Prosecutor, who in 1975 obtained indictments of two partners of a law firm and the firm's business manager in connection with bill-padding and a phony medical treatment scheme. The indictments charged the defendants with conspiring with certain doctors and others to submit fraudulent reports to insurance companies.

All indictments were dismissed but one, which charged a lawyer-defendant with obtaining money under false pretenses. Essex authorities, after being deputized in Middlesex County, obtained a seven-count indictment from a Middlesex Grand Jury.

In addition, the New York-New Jersey Waterfront Commission enlisted the SCI's assistance in its investigation and exposure of Worker Compensation frauds involving dock workers in 1974-75.

Finally, three New Jersey Judges of Compensation were suspended, one of whom subsequently was dismissed by the Governor and suspended from law practice for six months by the New Jersey Supreme Court.

1973-78 Passaic County Voc-Tec School—Misuse of Funds and US Surplus:

The SCI referred its probe data to the Attor-

ney General's Criminal Justice Division, which in May, 1974, obtained a State Grand Jury indictment charging the school's business manager-purchasing agent with bribery and misconduct in office. The official was convicted of bribery, sentenced to one-to-nine years in prison and fined \$9,000. The conviction was upheld by an appellate court in 1977. In March, 1977, Passaic County Freeholders filed a civil suit against the official, resulting in a court order that he return all salary received while he was suspended from his job as well as the bribe money. In February, 1978, the official agreed under a court-approved settlement to repay the county more than \$50,000 in 60 installments during a five-year period after his release from jail.

1973-74 Narcotics Traffic and Drug Law Enforcement

The SCI identified the victim of a murder and then located three suspects and participated in their arrests. In October, 1974, one of the suspects was convicted of the murder. The other two defendants pleaded guilty to lesser charges and testified for the prosecution. Also, as a result of evidence referred by the SCI to the Essex County Prosecutor, a burglary ring was exposed by the Prosecutor's staff. A Newark jeweler and his son were indicted and convicted of conspiracy and of receiving stolen property. The Essex Grand Jury in 1974 handed up more than 20 indictments against members of the burglary ring.

1974-77 Pseudo-Charitable Firms Misusing Handicapped

The SCI acquainted federal authorities with investigative findings during and after this probe. Subsequently, the owner of one company and the sales manager of another

company, who were targets of the SCI inquiry, pleaded guilty to federal charges of fraud. Both received suspended jail sentences.

Two laws were enacted in 1977 that implemented SCI recommendations. One law required authorization by the Attorney General before a corporation could identify itself as a fund raiser for the handicapped or the "blind." The other statute required professional fund raisers to submit financial reports to the Attorney General.

1974-77 Conflicts of Interest at Delaware River Port Authority

Based on evidence from the SCI probe, the Port Authority claimed more than \$64,000 from its former chairman as repayment of profits his firms made on Authority construction projects. The claim was settled in 1977 for \$50,666. Although the former chairman was absolved of any wrongdoing, he was not reappointed to the Authority.

1974-77 Lindenwold Municipal Corruption

As a result of State Grand Jury indictments in 1975, a former Lindenwold mayor and a real estate developer pleaded guilty to bribery and conspiracy charges as their trial was scheduled to begin. One former councilman was found guilty on three counts and another former councilman was found guilty on two counts at the conclusion of the trial in October, 1977. The SCI's public hearing testimony and investigative findings led to these actions.

1975-77 Investigation of Medicaid Abuses

A number of statutory and regulatory steps were taken during and subsequent to the Commission's investigations, interim reports

and public hearings. These actions included the Legislature's enactment of a New Jersey Clinical Laboratory Improvement Act, as well as a law increasing maximum penalties for bilking the Medicaid program through overbilling and false billing.

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

1976 Land Acquisition Deals in Middlesex County

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

SCI data was referred to the Middlesex County Prosecutor's office, which investigated the conduct of the County Land Acquisition Department. In September, 1976, a Grand Jury returned a presentment in which it said that while it found "no provable criminal act" by the department's former administrator, his activities "indicated an insufficient expertise and lack of concern to perform his office in the best interest of the citizens." The presentment also criticized

the collection of political contributions from appraisers, "which if not improper under law certainly gave the appearance of impropriety."

1976-77 Prison Furlough Abuses

Following the SCI probe and public hearing, in December, 1976, a State Grand Jury indicted a former Trenton State Prison clerk for false swearing and perjury. These charges related to a forged Superior Court Appellate Division opinion which was inserted into the record of an inmate, Patrick Pizuto, enabling him to obtain a premature release from incarceration. (Pizuto became a federally protected informant in an unrelated case.) In January, 1977, five former inmates of Leesburg Prison were indicted on charges of escape by means of fraudulent furloughs. These indictments led to convictions or guilty pleas.

1977-79 Organized Crime in Atlantic City

The Commission's investigation and public hearing confirmed the infiltration by the organized crime family of Angelo Bruno of Philadelphia into certain legitimate businesses — cigarette vending and nightclubs — after the legalization of casino gambling in Atlantic City. Also revealed were attempts by associates of the Gambino organized crime family to purchase a major Atlantic City hotel and by a New England mobster to intrude into the operation of a casino gambling school. In 1979 the Legislature enacted a law strengthening the licensing requirements for the cigarette industry to proscribe licensure of organized crime members or associates.

1978-79 Boarding Home Abuses

The SCI's public hearings and reports on

this investigation were among a number of public actions by various agencies that led to the enactment of a boarding home reform law. However, this law did not implement a major recommendation of the SCI - that is, to center boarding home licensing and monitoring obligations, which were spread among three departments of government, into one department.

1978 Absentee Ballot Frauds

Many of the SCI's proposed reforms, drafted in cooperation with the Attorney General's office, have been enacted.

1979-80 Injury Leave Practices

Inappropriate deductions of social security and income taxes from wages paid to public employees under various municipal and county injury leave policies were halted and efforts were made to recoup such deductions in the past.

1979-81 Inadequate Sudden Death Investigations

Efforts to reform the county Medical Examiner system were begun. However, none of these proposed revisions includes the SCI's major recommendation that a statewide regional system of medical examiners be established operating with accredited forensic pathologists in conjunction with the Institute of Forensic Science in Newark.

1979-81 Questionable Public Insurance Procedures

The Commission's proposed reforms for the purchase and regulation of county and municipal insurance programs were submitted to the Legislature in bill drafts.

1980-81 Organized Crime Infiltration of Dental Care Plans

Legislation was enacted in 1982-83 incorporating the Commission's recommendations for barring organized crime influence in dental care plans sold to labor unions and for increased auditing, monitoring and financial disclosure for such plans. The SCI was represented by a Commissioner and its Executive Director at a House Aging Committee hearing in 1981 on abuses of health care trust funds and at a public hearing by the Pennsylvania Crime Commission in 1981 on its probe of mob influence over the operation of labor union dental plans.

1981 Mismanagement of the New Jersey HFA

During the course of this investigation, the HFA's executive director, William Johnston, a subject of the inquiry, resigned and a new reform administration was put in place. After the issuance of the SCI's initial report, certain HFA personnel discussed in the report resigned or were dismissed and new procedures for processing housing projects were instituted. The Commission's investigative findings, contained in two public reports, were submitted to various prosecutorial authorities.

1981-82 Organized Crime Incursion into Labor Relations Profiteering at Mass Housing Construction Sites

This report spurred so much interest that copies of it are no longer available, but no action was taken on the SCI's recommendations at either the State or Federal level.

1981 Misconduct in the Operation of Certain County and Local Sewerage Authorities

This probe, hearing and report resulted in

the enactment of a comprehensive law giving the State Local Government Services Division the same effective control over the fiscal and administrative operations of sewerage and other local authorities that it exercises over municipalities.

1982-85 Inappropriate Activities of the Lakewood Municipal Industrial Commission

The report on this inquiry resulted in the enactment in 1984-85 of the SCI's recommendations for reforming the operations of all such local industrial commissions throughout the state.

1983 Abuse and Misuse of Credit Controls at Gambling Casinos

This inquiry, public hearing and report resulted in more effective controls, albeit less stringent than recommended.

1983 Improproprieties in the Leasing of State Lands at Great Gorge in Sussex County to a Ski Resort

The public hearing and report were followed by criminal and civil actions based on the SCI's investigative findings which resulted in the reimbursement of millions of dollars owed to the State and in substantial fines and other penalties against the major principals of the Vernon Valley conglomerate and its subsidiary companies.

1983-88 An interim report on the Inadequacy of Laws and Regulations Governing the Boxing Industry

In line with the SCI's recommendations, a law was passed revising the tax structure for boxing events, and another bill revising the entire administration of the sport, including medical and safety provisions, was subse-

quently enacted. Revelation of improprieties by the State Athletic Commissioner led to his resignation. The regulatory reforms, particularly those that were intended to protect the health and physical welfare of boxers, as enacted in 1988, fell far short of the SCI's reform proposals.

1984 Misconduct and inappropriate controls in the Newark school security system

Bills were introduced in the 1986-8 Legislature to implement certain reforms recommended by the SCI report.

1984 Excessive spending that almost led to the insolvency of the Newark Board of Education/Newark Teachers Union Supplemental Fringe Benefits Fund

A report on the investigative findings was incorporated in the Commission's 16th Annual Report. Litigation involving the Fund's director, who was dismissed during the SCI probe, is pending.

1983-85 Organized Crime in Boxing

The SCI's final report confirmed so serious an intrusion of organized crime into boxing that, were the same mob presence to afflict such other professional sports as baseball or football, it would constitute a public scandal. Dissection of a dozen case histories not only reflected the ineffectiveness of the regulatory process in stamping out organized crime but also the inability of the regulators — and managers and promoters as well — to prevent boxers from becoming brain-damaged and blinded. As a result, the SCI joined the American Medical Association and other medical groups in urging that boxing be banned. In the meantime, the SCI proposed a series of further reforms, to reduce the physical hazards of boxing as well

as its organized crime taint. Bills requiring background checks of prospective licensees, including promoters and managers, were enacted in 1986-87. Other "reforms" which were below the standards urged by the SCI also were enacted in 1988 (See 1983-88 interim report on boxing).

1985-86 Probes of N.J. Division of Motor Vehicles

1) Photo license controversy, an investigation directed by the Legislature to be completed in 30 days. The Commission criticized the Division of Motor Vehicles and the Attorney General for the intentional non-disclosure of a major political contributor's proposed role in a universal photo license system.

2) Investigation, public hearing and report on the DMV's politicized, inefficient agency system. The Commission recommended conversion of all motor vehicle agencies to state operated entities as well as internal reforms within the Division to enhance the integrity of the licensing and registrations processes.

3) Investigation of the DMV-Price Waterhouse computer fiasco, which had its origins in the collapse of the DMV's services to the public in mid-1985. This probe resulted in a report critical of DMV's management of the computer project as well as the serious policy misjudgments and professional misconduct by the computer contractor. The report made recommendations for reform of bid waiver procedures.

1986 State Racing Commission's regulatory deficiencies

The SCI's review noted the Racing Commission's reform efforts during the course of its investigation, but emphasized numer-

ous areas — race track security and integrity, regulatory timidity, auditing of track operations, more stringent drugs controls and tighter licensing procedures — that remained to be corrected. A bill incorporating most of the SCI's reform proposals has been passed by the Assembly and is awaiting final legislative action in the Senate.

1986-87 Investigation of Organized Crime-Influenced Contractors on Casino and Publicly Funded Construction Projects

This report was combined with the Commission's annual report for 1986. It recommended centralization and strengthening of state and Casino Control Commission procedures for prequalifying and disqualifying prospective contractors and subcontractors. The investigative findings demonstrated that two mob-operated companies had amassed millions in revenues from casino projects and public works from which they should have been barred. Bills which would extend Control Commission scrutiny to subcontractors and casino license applicants were enacted.

1986-87 Investigation and Report on Impaired and Incompetent physicians

A report on the Commission's investigation on Impaired and Incompetent physicians was issued in October, 1987. The report was critical of the New Jersey Medical Society's Impaired Physicians Program and the inability of the IPP and the State Board of Medical Examiners to adequately rehabilitate and monitor impaired doctors to prevent harm to patients. Legislative action to improve the reporting, rehabilitation and supervision of impaired and incompetent doctors was immediately initiated in the State Senate and the SCI was represented at a legislative committee hearing on the reform proposals.

IV

MEMBERS OF THE COMMISSION

1969-1989

Appointed by the Governor

William F. Hyland 1969-1970 <i>Chairman</i>	Charles L. Bertini 1969-1976
John F. McCarthy, Jr. 1970-1973 <i>Chairman</i>	Lewis B. Kaden 1976-1981
Joseph H. Rodriguez 1973-1979 <i>Chairman</i>	Robert J. DelTufo 1981-1984
Henry S. Patterson, II 1979- <i>Chairman (1985-)</i>	James R. Zazzali 1984-

Appointed by the President of the Senate

Glen B. Miller, Jr. 1969-1971
Wilfred P. Diana 1971-1973
David G. Lucas 1973-1976
Stewart G. Pollock 1976-1978
Arthur S. Lane 1979-1985 <i>Chairman</i>
Paul Alongi 1985-1987
W. Hunt Dumont 1988-

Appointed by the Speaker of the General Assembly

Emory J. Kiess 1969
James T. Dowd 1969-1971
Thomas J. Shusted 1971-1972
Thomas R. Farley 1973-1977
Arthur S. Lane 1977-1978
John J. Francis, Jr. 1979-1982
William S. Greenberg 1982-1987
Barry H. Evenchick 1987-

