

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

\* Excerpt from S.C.I. Law

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**TWELFTH ANNUAL REPORT**

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*of the*

---

**STATE OF NEW JERSEY**

**COMMISSION OF INVESTIGATION**

*to the*

**GOVERNOR AND LEGISLATURE**

THESE ARE THE ONLY TWO COPIES OF THE  
ORIGINALS OF THE ABOVE MENTIONED  
DOCUMENTS.

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DOCUMENTS.

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**STATE OF NEW JERSEY  
COMMISSION OF INVESTIGATION**

**COMMISSIONERS**

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

**EXECUTIVE DIRECTOR**

Michael R. Siavage

**DEPUTY DIRECTOR**

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\*Mr. Del Tufo, the former U. S. Attorney for New Jersey, was appointed in March, 1981, to succeed Mr. Kaden, who had served on the Commission since July, 1976.

\*\*Mr. O'Halloran succeeded Mr. Siavage as Executive Director in 1981.



**STATE OF NEW JERSEY  
COMMISSION OF INVESTIGATION**

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

The New Jersey State Commission of Investigation  
is pleased to submit for the year 1980 its twelfth  
annual report and recommendations pursuant to Sec-  
tion 10 of P. L. 1979, Chapter 254 (N.J.S.A. 52:9M-10),  
the Act establishing the Commission of Investigation.

Respectfully submitted,

Arthur S. Lane, Chairman  
John J. Francis, Jr.  
Robert J. Del Tufo  
Henry S. Patterson, II

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INTERVIEW OF

1. Name of the person interviewed: [Name]  
2. Address: [Address]  
3. Date of birth: [Date]  
4. Place of birth: [Place]  
5. Education: [Education]  
6. Occupation: [Occupation]  
7. Marital status: [Status]  
8. Number of children: [Number]  
9. Date of interview: [Date]  
10. Interviewer: [Name]  
11. Duration of interview: [Duration]  
12. Purpose of interview: [Purpose]  
13. Method of interview: [Method]  
14. Location of interview: [Location]  
15. Time of interview: [Time]  
16. Weather conditions: [Weather]  
17. State of mind of interviewee: [Mind]  
18. State of mind of interviewer: [Mind]  
19. State of mind of observer: [Mind]  
20. State of mind of subject: [Mind]  
21. State of mind of object: [Mind]  
22. State of mind of environment: [Mind]  
23. State of mind of society: [Mind]  
24. State of mind of culture: [Mind]  
25. State of mind of religion: [Mind]  
26. State of mind of politics: [Mind]  
27. State of mind of economics: [Mind]  
28. State of mind of science: [Mind]  
29. State of mind of art: [Mind]  
30. State of mind of literature: [Mind]

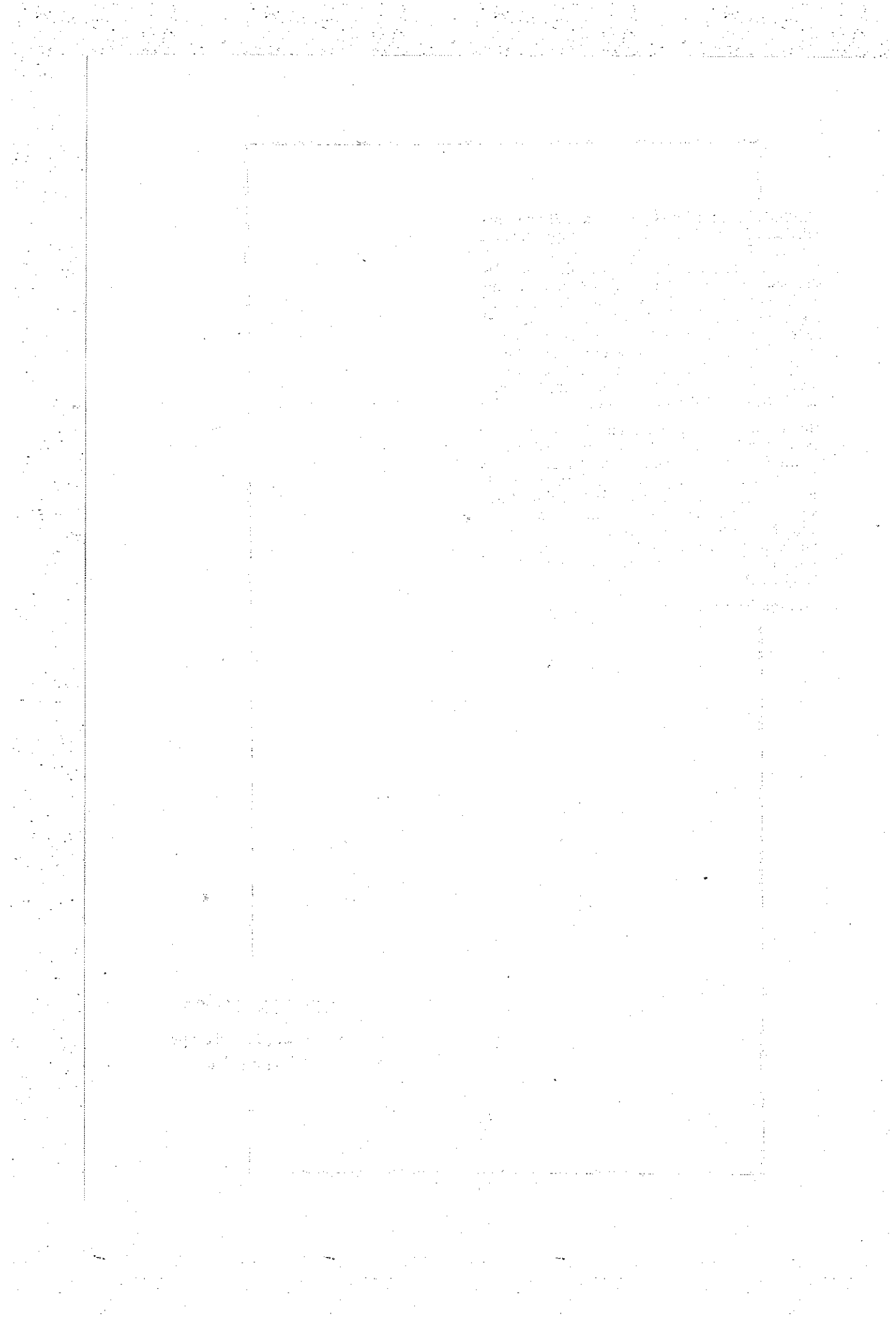
52:9M-1. There is hereby created a State Commission of Investigation. The Commission shall consist of four members, to be known as commissioners. Two members of the Commission shall be appointed by the Governor. One each shall be appointed by the President of the Senate and by the Speaker of the General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

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

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

**THE COMMISSION**

- **Origin and Scope**
- **Biographies**





## ORIGIN AND SCOPE OF THE COMMISSION

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

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

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

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

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

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

and an independent State Commission of Investigation, patterned after the New York State Commission of Investigation, now in its 23rd year of probing crime, official corruption and other governmental abuses.

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

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

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

\*The bill creating the New Jersey State Commission of Investigation was introduced April 29, 1968, in the Senate. Legislative approval of that measure was completed September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969, and ending December 31, 1974. It is cited as Public Law, 1968, Chapter 266, N. J. S. A. 52:9M-1 et seq. The Legislature on November 12, 1973, completed enactment of a bill, cited as Public Law, 1973, Chapter 238, which renewed the Commission for another term ending December 31, 1979. A bill granting the S.C.I. an extension of its tenure for another five years until December 31, 1984, gained final approval by the Legislature and the Governor in December, 1979. The full text of Chapter 254, L. 1979, appears in Appendix II on P. 75.

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

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

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

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

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

To insure the integrity and impartiality of the Commission, no more than two of the four Commissioners may be of the same political party. Two Commissioners are appointed by the Governor and one each by the President of the Senate and the Speaker of the Assembly. It thus may be said the Commission by law is bipartisan and by concern and action is nonpartisan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



### **MEMBERS OF THE COMMISSION**

The Commission's activities have been under the leadership of Arthur S. Lane since February, 1979, when he was designated as Chairman by Governor Brendan T. Byrne after his appointment to a second term as Commissioner. The other Commissioners are John J. Francis, Jr., Henry S. Patterson, II, and Robert J. Del Tufo, who succeeded Commissioner Lewis Kaden in March, 1981.

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

Mr. Francis, of Bedminster, is a partner in the Newark and Morristown law firm of Shanley and Fisher. From 1961 to 1963 he was an assistant U.S. attorney and from 1963 to 1965 he was an assistant Essex County prosecutor. A graduate of Williams College and the University of Pennsylvania Law School, he was admitted to the New Jersey State Bar in 1960. Mr. Francis, 46, is the son of former Associate Justice John J. Francis of the New Jersey Supreme Court. He was appointed to the Commission in February, 1979, by Christopher J. Jackman, Speaker of the General Assembly of New Jersey.

Mr. Patterson, of Princeton, is president and a director of the Elizabethtown Water Co., chairman of the board of the First

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

Mr. Del Tufo, who was United States Attorney for New Jersey from 1977 to 1980, was appointed to the Commission in March, 1981, by Governor Byrne as Commissioner Kaden's successor. A resident of Morristown, he is a member of the law firm of Stryker, Tams and Dill of Newark and Morristown. Prior to becoming the United States Attorney, he served as First Assistant Attorney General for the State of New Jersey from 1974 to 1977. During a portion of this period (1976-77) he also served as the Director of the Division of Criminal Justice in the Attorney General's Department of Law and Public Safety. His previous government service included Assistant Prosecutor (1963-65) and First Assistant Prosecutor (1965-67) of Morris County and a member of the New Jersey Board of Bar Examiners (1967-74). Mr. Del Tufo, 47, was graduated from Princeton University in 1955 and from Yale Law School in 1958. He was admitted to the New Jersey Bar in 1959 and, after serving as law secretary to Chief Justice Joseph Weintraub of New Jersey Supreme Court, engaged in the general practice of law for 13 years prior to his designation as First Assistant Attorney General. He is a fellow of the American Bar Foundation, a professor at the Rutgers University School of Criminal Justice, a member of the Former United States Attorneys Association and the National District Attorneys Association and a member of the American, New Jersey State and Morris County Bar Associations. He also is a member of the Board of Trustees of Newark Academy and of the Board of Regents of St. Peter's College.



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

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

\* Excerpt from S.C.I. Law

**ORGANIZED CRIME PROGRAM**

• 1980 Update

the United States of America  
for the purpose of providing  
the following information:

1. The name of the person or  
entity to whom the information  
is being provided, and the  
reason for providing it.  
2. The name of the person or  
entity providing the information,  
and the reason for providing it.

THE UNITED STATES OF AMERICA  
DEPARTMENT OF JUSTICE

## ORGANIZED CRIME PROGRAM

### 1980 UPDATE

#### *Frank (Funzi) Tieri*

The successful federal prosecution of this Genovese family boss in New York in the Fall of 1980 was highlighted by the testimony of:

- Herbert Gross, a former Lakewood hotel operator who was a key witness in the SCI's exposé of organized crime depredations in Ocean County in 1972.
- SCI Special Agent Joseph Corrigan, whose testimony helped to solidify the prosecution's identification of Tieri as a major mob boss of strong-arm racketeering operations that extended into New Jersey.

Tieri was convicted in U.S. District Court, Manhattan, on November 21. During the trial Gross testified about his own role as a "defendant" in an organized crime "sitdown"—a mob star chamber proceeding for adjudicating disputes that was described publicly for the first time at the S.C.I.'s hearings on Ocean County mob activities. Gross told the Federal Court jury that Tieri had presided at a 1969 sitdown in the backroom of a store in Lower Manhattan and ruled that Gross "belonged" to a crime family from which he had borrowed \$7,500 and therefore was obligated to repay \$14,000 (including interest charges) to the loanshark from whom he obtained the loan. It was after this incident, and to shorten a State Prison sentence he had been serving in 1971, that Gross began cooperating with law enforcement agencies. One of his first activities as an informant was his appearance as a witness at the 1972 S.C.I. hearings that traced underworld loansharking ties from Ocean County to North Jersey and New York crime families.

Other links between Tieri and former S.C.I. investigative targets—the since murdered Angelo Bruno, Antonio (Tony Bananas) Caponigro and Anthony (Little Pussy) Russo—were revealed by Assistant U.S. Attorney Nathaniel Akerman in material submitted

to the trial judge preparatory to Tieri's sentencing. Tieri was sentenced to serve <sup>10?</sup> 20 years in federal prison and fined \$60,000.

Tieri's rise to the top of one of New York's five organized crime families had come about indirectly as a result of the S.C.I.'s program of confronting and disrupting organized crime figures in New Jersey. After Vito Genovese died in a federal penitentiary in 1969, the Genovese family's leadership was entrusted to two longtime underbosses. One of these was Thomas Eboli of New York and Fort Lee, who was murdered in 1972. The other was Gerardo (Jerry) Catena of West Orange, who was among the first organized crime chieftains to be sent to jail (in 1970) for refusing to respond to questions by the S.C.I. about his mob operations and connections. Catena remained in jail, silent, for five years, a prolonged incarceration which weakened his effectiveness as a crime family boss and which enabled Tieri to assume command of the Genovese family. Catena won release from prison in 1975, after which he "retired" at age 75 to Florida. Tieri was 76 years old at the time of his federal court conviction in 1980.

#### *Carl (Pappy) Ippolito*

A distant cousin of the murdered Bruno, Ippolito had been waging since 1975 a continuous court battle to avoid answering at S.C.I. hearings certain questions about his underworld activities. He was finally ordered by the courts to appear for interrogation in 1978 under a subpoena that had been served on him in his dentist's office in Trenton in 1975. However, he failed to respond as required on May 5, 1978, and again the following May 18, during which period he was living in Morrisville in Bucks County, Pennsylvania. (The Pennsylvania Crime Commission had revealed an extensive gambling network in Bucks County and identified Ippolito as one of its key promoters with close liaison to organized crime figures in Philadelphia and Mercer County, New Jersey). After Ippolito failed to obey the S.C.I.'s subpoena in 1978, the Commission requested the Attorney General's office to extradite and arrest him for contempt. Ippolito was indicted by the State Grand Jury for criminal contempt in June, 1978, and a warrant for his arrest was issued and extradition proceedings were begun. He subsequently surrendered and was brought to trial before Superior Court Judge Richard J. S. Barlow, Jr. He was convicted on June 25, 1980, of contempt for failure to appear before the S.C.I. in 1978. On November 24, 1980, the 71-year-old Ippolito was fined \$5,000.

### *Angelo Bruno*

Angelo Bruno (Annaloro), whose Philadelphia crime family's influence extended into Central and South New Jersey, was shot to death outside his South Philadelphia home on the night of March 21, 1980. A series of mob-type assassinations followed, the victims including a number of other targets of the S.C.I.'s program of organized crime confrontations.

Bruno himself had last been questioned by the S.C.I. on the eve of his fatal ambush. Although any connection between his death and his S.C.I. appearances is doubtful, the S.C.I. during 1979 had encountered difficulties in its efforts to recall and to question Bruno about his more current underworld activities. Bruno was requested to appear before the Commission on October 17, 1979, but his lawyer reported back that he did not know his client's whereabouts. Bruno, who had apparently flown to Italy in the interim, subsequently reappeared. When questioning resumed at the S.C.I. on October 31, the proceedings were disrupted by the necessity for the Commission to appear twice before Superior Court Judge George Y. Schoch to obtain back-to-back orders compelling Bruno to make responsive answers. Litigation continued against the Commission's subpoena of Bruno even as he returned for questioning on December 6, 1979, and March 20, 1980. However, the S.C.I.'s subpoena of Bruno was in full force and effect at the time of his murder.

In all, Bruno had appeared 15 times for questioning by the S.C.I. since he was originally subpoenaed in August, 1970. Within two months of his first appearance, he was found in Superior Court to be in civil contempt and ordered to be incarcerated for refusing to answer questions about organized crime despite being granted immunity from prosecution. After several brief releases from prison for medical reasons, he obtained a court-ordered release for an indefinite period in June, 1973, for more extensive treatment. By the Spring of 1977, Superior Court ordered Bruno returned to jail, having ruled that his physical problems had ameliorated to the point that his freedom from custody was no longer warranted. On May 23, 1977, the day before he was to have been reincarcerated until he purged himself of contempt, his counsel represented to the court that he intended to respond to the S.C.I.'s questions and his return to jail was stayed. On June 16, 1977, Bruno began a series of appearances before the Commission, highlighted by his testimony on August 8, 1977, as a witness at the

S.C.I.'s public hearings on the incursion of organized crime into certain legitimate businesses on the periphery of legalized casino gambling in Atlantic City.

As numerous law enforcement agencies pressed investigations of Bruno's murder, testimony at the S.C.I.'s 1977 hearings by Bruno and by witnesses associated with Bruno's crime family and the late Carlo Gambino's crime family in New York gained increasing significance. Such testimony had demonstrated that:

- Bruno had met with Paul Castellano, the late Carlo Gambino's brother-in-law, at Valentino's in Cherry Hill in November, 1976, ostensibly to discuss their mutual interest in Atlantic City, where New Jersey voters had authorized the operation of legal gambling casinos. The restaurant at which the Bruno-Castellano dinner meeting took place was owned and operated by certain Gambinos who were distant cousins of the late Gambino "boss-of-bosses."

- A mob-controlled cigarette and vending wholesaler for which Bruno was a so-called "super salesman" had muscled into Atlantic City's legitimate cigarette vending business. Public hearing testimony confirmed that one cigarette distributor in 1976-77 had lost \$500,000 worth of business to Bruno's company.

- One of the late Carlo Gambino's relatives, Emmanuel Gambino, using an assumed name, had sought to purchase an Atlantic City hotel in early 1977 with the aid of an associate of Bruno's nephew and real estate adviser, Michael Grasso.

- Giuseppe and Rosario Gambino paid an Easter Day visit to Bruno's home in 1977, an act of homage by underlings to an underworld boss that is an organized crime custom.

#### *Antonio (Tony Bananas) Caponigro*

The nude bodies of Caponigro, described by law enforcement authorities as a "Bruno loyalist," and his brother-in-law Alfred Salerno were found April 18 in South Bronx. The corpses were so mutilated (Caponigro, in addition to stab wounds and blows

to the head and face, received multiple gun shot wounds) that they were not identified until April 29.

Caponigro had fled New Jersey in 1970 to avoid an S.C.I. subpoena. In late 1974 he returned to his Short-Hills-Millburn home, Federal authorities, who had alerted the S.C.I. in advance, appeared at his house on New Year's Eve in order to serve him with a Federal grand jury subpoena. A chase ensued, during which Caponigro's car sideswiped a federal agent's car and Caponigro was captured and brought to Millburn police headquarters. S.C.I. special agents served him there with a subpoena for questioning at the Commission's office. A number of interrogations were conducted at the S.C.I. after Caponigro completed his federal prison terms. Caponigro was 67 years old when he was murdered.

#### *John (Johnny Keys) Simone*

Simone, 66, of Yardley, Pa., a former resident of New Jersey, fled to Florida in the early 1970s to avoid being served with an S.C.I. subpoena. A Bruno family capo, he was found dead on Staten Island on September 19. He had been shot behind the left ear with a rifle.

#### *Bruno Crime Family Recap*

The year 1980 was clearly a period of violent change in the power structure of the organized crime family formerly headed by Angelo Bruno. The deaths of Bruno himself, Caponigro, Simone and Frank Sindone, in addition to others, indicate a major shift. Speculation has abounded as to the impact of these homicides on the hierarchy of the organization, but what can be safely said is that this cartel will continue to have a significant impact on life in the southern region of New Jersey. The Commission is in the process of identifying the new or diffused leadership of the Bruno group with the intention of targeting likely candidates for the S.C.I.'s continuing program of mob surveillance and confrontation.

#### *Nicodemo (Little Nicky) Scarfo*

Scarfo, a former S.C.I. target, who currently is a capo in the Philadelphia crime family, and his nephew Philip (Crazy Phil) Leonetti and Lawrence (Yogi) Merlino, all of Atlantic City, were acquitted by a trial jury in Mays Landing on October 10 of murder charges. They had been accused of slaying Margate cement contractor Vincent Falcone the previous December 16.

Scarfo, who was found guilty of contempt in 1970 for refusing to respond to questions at the S.C.I., served 31 months in jail before finally agreeing to submit to the Commission's interrogation. He made a number of appearances at the S.C.I. after he was released from prison in 1973. A loanshark and gambling operator, among other illegal interests, Scarfo had long been close to Philip (Chicken Man) Testa (who was murdered after he reportedly had taken control of the murdered Bruno's crime family). Although Scarfo's acquittal of the Atlantic City murder charge is believed to have enhanced his standing in the mob, he faces trial on other charges. An Atlantic County Grand Jury in January, 1980, indicted him for illegal possession of a weapon. A similar indictment was handed up by a Federal Grand Jury in January, 1981.

#### *Tino Fiumara*

Fiumara, 39, of Wyckoff, N. J., also a former S.C.I. target, was found guilty on May 2, 1980, by a federal court jury in Manhattan on charges of using "fear and other economic harm" to perpetuate a racketeering ring at Ports Newark and Elizabeth. Six other defendants, including three International Longshoremen Association officers and three henchmen of Funzi Tieri in the Genovese mob, also were convicted. Fiumara already had been serving a 20-year sentence for shaking down a Parsippany-Troy Hills restaurateur. Fiumara was another of the numerous organized crime figures who disappeared from New Jersey to avoid S.C.I. subpoenas.

#### *Patrick Pizuto*

This 39-year-old protege of the murdered Anthony (Little Pussy) Russo of Long Branch, was a key state witness in the celebrated mob trial in Freehold in the Spring of 1980. This trial resulted in the conviction of four known organized crime members. Two other mobsters entered guilty pleas in that investigation by the Attorney General's office.

Pizuto first came to wide public attention in 1976 during hearings by the S.C.I. on abuses of the pre-parole release programs in New Jersey's prison system. The Commission's investigation disclosed and witnesses at the hearings confirmed that a phony document purporting to be an opinion handed down by Superior Court Appellate Division had been used to enable Pizuto to gain release



from prison two years and 52 days earlier than he should have been paroled. A since-dismissed State Prison clerk was indicted by the State Grand Jury and subsequently convicted in Superior Court for false swearing and perjury at the S.C.I.'s public and executive sessions in connection with the bogus court opinion on Pizuto. Pizuto is in the federal witness protection program.

### *The Gambinos*

The brothers Giuseppe and Rosario Gambino, whose financial operations were first revealed in the S.C.I.'s probe of organized crime infiltration of legitimate businesses in Atlantic City in 1977, were indicted by a federal grand jury in Brooklyn in March, 1980, on charges of conspiracy to possess and distribute heroin. Also indicted were two brothers of Dominico Adamita of Mt. Laurel, who also testified under subpoena in the S.C.I.'s 1977 hearings about the establishment of the mob-financed Casanova Disco in Atlantic City earlier that year. Dominico Adamita reportedly was arrested in Italy.

During the Spring of 1980, the Internal Revenue Service filed a lien against Giuseppe Gambino's Valentino Supper Club in Cherry Hill, seeking more than \$31,000 in 1978 back taxes and interest. Early in 1981 a dead fish was mailed to Rosario Gambino. According to Mafia mob custom, a dead fish on the threshold warns the recipient that someone close to him is or soon will be "sleeping with the fishes."

### *Star Ledger Story Cites SCI*

As indicated in this section's update of organized crime activities in connection with the Commission's work, 1980 was an unusually productive year in the federal-state law enforcement battle against the underworld. But the mob has ready replacements for key members who are murdered or jailed, as aptly demonstrated in a story published by the Newark Star Ledger on May 4, 1980. In this story, reporter Robert Rudolph described continuing efforts by New York organized crime families to gain control of New Jersey "turf" in the wake of deaths, desertions and detention of many Jersey mobsters. This story quoted law enforcement sources as attributing the breakdown of the New Jersey mob's old hierarchy in part to the S.C.I. program of organized crime confrontation. Rudolph wrote:

"The others, the real old line bosses, are all gone and retired," a knowledgeable source explained. "It started when the S.C.I. (State Commission of Investigation) began calling them to testify and they fled to Florida to avoid the subpoenas."

Other sources have also credited the S.C.I.—which had the power to order the imprisonment of any mob figure who refused to answer questions—with playing a pivotal role in the breakdown of the old line mob control.

Gerardo (Jerry) Catena, formerly of South Orange, reputedly the most powerful organized crime figure in the state, fled to Florida after his run-in with the S.C.I. and has been in retirement, spending the bulk of his time on the golf courses near his home.

Similarly, Simone Rizzo (Sam the Plumber) DeCavalcante, the head of his own New Jersey-based mob family, has turned over the reins of power to a caretaker identified as John Riggi, and is also spending the bulk of his time basking in the Florida sunshine.

The pending New York mob "invasion" has law enforcement authorities concerned, however, because of a potentially explosive conflict which could erupt between the newly designated "capos" and other New Jersey mob figures seeking to retain control of their territories.

### *Other Confrontations*

The S.C.I. continued during 1980 its surveillance and executive session questioning of ranking members of the DeCavalcante and other crime families whose depredations centered in New Jersey. These individuals included John Riggi and Louis Larasso of Linden and Joseph Paterno of Miami, formerly of Newark.

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

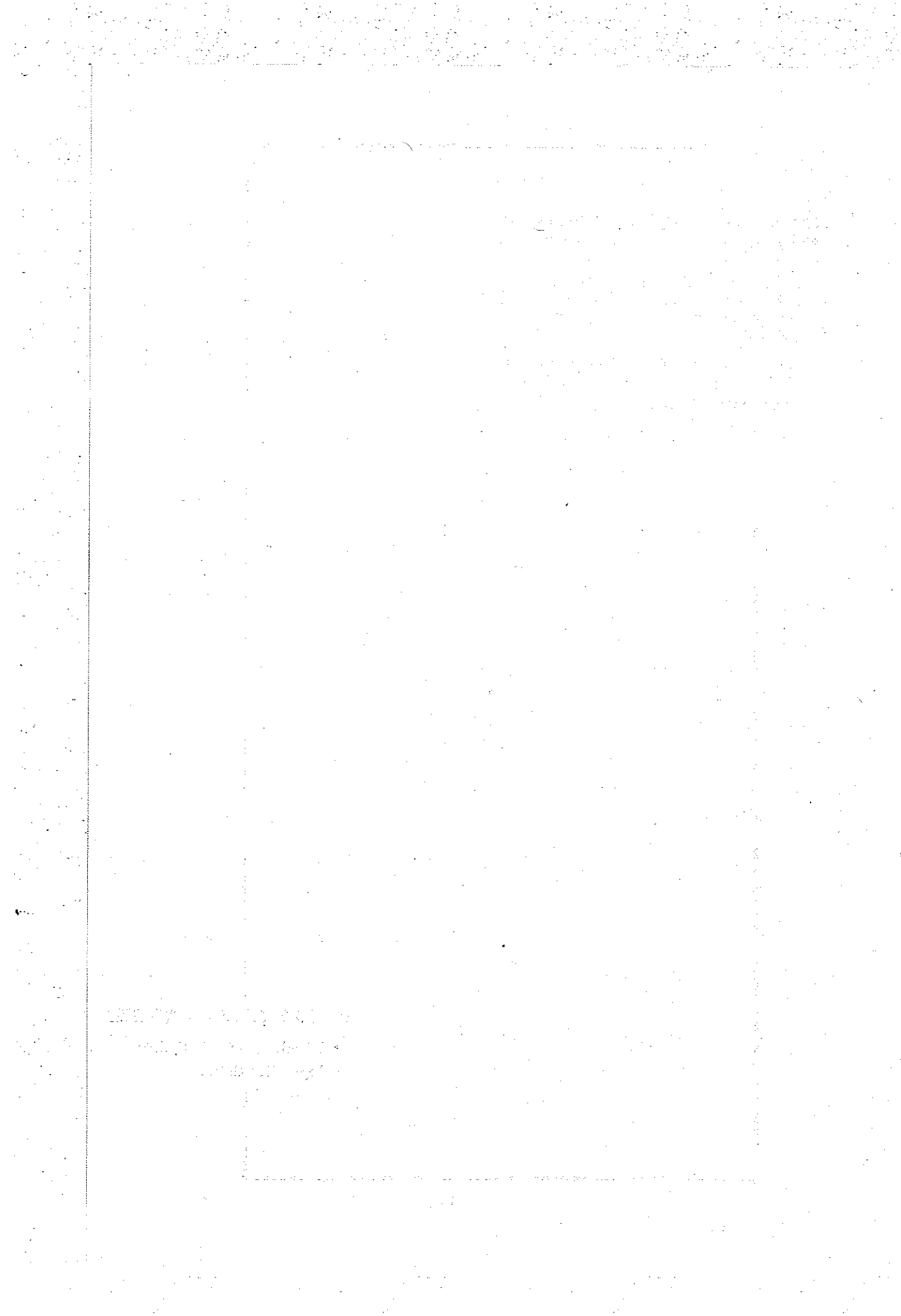
. . . The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;

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

\* Excerpt from S.C.I. Law

#### THE S.C.I.'s PUBLIC ACTIVITIES

- Introduction/1980 Update
- Legislative Liaison



## *THE COMMISSION'S PUBLIC ACTIVITIES*

### INTRODUCTION/1980 UPDATE

The Commission's public actions in 1980 included:

- Publication in May of a 370-page report and recommendations on improper handling of public insurance transactions by a number of county and municipal governments.\*
- A four-day public hearing in December on organized crime infiltration of the dental care industry in connection with prepaid health care plan contracts involving health and welfare trust funds of certain labor unions.

#### *Proposed Statutory Reforms in Public Insurance Practices*

The S.C.I.'s report on local and county public insurance practices included recommendations designed to achieve the following objectives:

Unlimited public scrutiny of all county and municipal governing body discussions and decisions in public insurance matters.

Full public disclosure of all elements of public insurance programs as they are proposed, purchased and implemented.

Statewide distribution of all immediately available expertise to county and local governing bodies in the form of guidelines, counseling, manuals, model specifications and related materials.

A more competitive market for public insurance business.

The Commission's report created wide interest throughout the state.

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\* See N. J. State Commission of Investigation "Report and Recommendations on the Purchase and Administration of Public Insurance Programs," issued May, 1980.

The PIA Reporter, the journal of the Professional Insurance Agents of New Jersey with a circulation among more than 1,100 agencies, carried on June 20 a lengthy summary of the report's reform proposals and served as a voluntary distributional source for the SCI report's 14 pages of detailed recommendations. Utilizing this same issue of the PIA Reporter, Edward J. Shaara, Jr., president of the Self Insurance Management Corporation of Verona, mailed notices to 600 Boards of Education in New Jersey alerting them to the possible approval by the Legislature of a bill to permit school boards to establish self insurance funds and/or create self insurance pools with other boards—a pooling proposal that the S.C.I. had strongly recommended for municipalities as well as school districts in its published report.

In addition, Essex County Executive Peter Shapiro announced in December the institution of a program under which, as he reported in a letter to the Commission, "for the first time the selection of agents and brokers for County's \$8 million worth of insurance will be completely removed from politics and placed on an open, fair and professional (set of) standards." Because Mr. Shapiro's action serves as a prime example for other governmental entities interested in establishing more efficient, economical and nonpolitical public insurance systems, the Commission reprints here his full announcement of the program:

Criteria for the selection of insurance agents and brokers for Essex County's \$8 million insurance expenditures were announced by County Executive Peter Shapiro.

"For the first time, this selection will be completely depoliticized, and based on thoroughly professional standards," said Shapiro. "By creating a fair and open basis for the purchase of insurance, we are guaranteeing the most advantageous insurance coverage for the County at the best price. By taking politics out of the insurance business, we will save the County money."

Shapiro said the need for professional criteria was established by a 1980 report from the State Commission of Investigation on county and municipal government insurance coverage. Although the report did not mention Essex specifically, it did say that in many instances across the state, insurance contracts were

blatantly political and costing governments more than was necessary.

Essex County's criteria were prepared by Barbara M. Adams, director of the County's newly established Office of Risk Management, in consultation with the County's Risk Management and Insurance Advisory Board.

"One of the prime considerations of the Risk Management Office is the utilization of only qualified agents or brokers for the purchase of insurance or insurance services," said Adams. "With an operation the size of Essex County it is imperative that those firms providing insurance and risk management services have the capability of providing the best service available.

"It is the expressed policy of the County, under the criteria, to obtain any required commercial insurance at the lowest cost consistent with the most desirable required level of agent/broker service, insurance companies of adequate financial status, expertise and service potential."

A file of all prequalified agents and brokers will be set up in the Office of Risk Management. When it is necessary to purchase insurance, it will be from that prequalified list that brokers and agents will be called upon to submit proposals.

Each agent or broker currently on file in the Risk Management Office who has shown an interest in doing business with the County will be sent material on the prequalifying criteria. New requests will be answered on an ongoing basis for criteria on prequalification. The Risk Manager will review all documentation from agents or brokers to determine if that person can be prequalified. If the firm does not qualify, the person will be notified as to the specific areas where he or she has not met specifications. The broker or agent can apply to the Risk Management Office again once those specifications are met.

Among the requisites to prequalify, an agent or broker must:

- Meet financial stability standards. There is no minimum requirement for the volume of business transacted; however, there must be documentation to support the financial stability of the company.

- Have the capacity and personnel to service large accounts and be able to provide the County with proven accomplishments in this area.

- Understand and accept the risk management concept as utilized by the County and have proven qualified personnel knowledgeable and experienced in risk management to serve the County on highly professional basis.

- Have a disciplined system to compile information and statistics and an effective method of communicating the information and statistics to the County.

- Have the ability and capacity to provide back up for the County's Risk Management Department, in such areas as statistical data, evaluation of risks and recommendations of methods of protection, safety programs and changes in the industry,

- Have familiarity with and unlimited access to insurance markets.

- Exercise within his or her organization an Affirmative Action Plan in adherence to Federal Government requirements.

#### *Organized Crime Infiltration of Dental Care Plans\**

The Commission concluded a prolonged investigation of organized crime incursion into certain dental care plan organizations which had obtained contracts to service labor union members through union local health and welfare trust funds in late 1980. Its findings then became the subject of four days of public hearings at the State House, on December 9, 10, 11 and 12. That these hearings succeeded in attaining the Commission's investigative objectives was reflected in a statement by S.C.I. Chairman Arthur S. Lane at the closing session:

\*The Commission's report and recommendations on Organized Crime Infiltration of Dental Care Plan has been published and copies are available at the Commission's office.



At the outset of these public hearings the Commission stated its purpose and outlined the proofs it intended to develop.

The voluminous testimony recorded here during the past four days confirms that the providing of essential dental care services to workers in northern and southern areas of New Jersey is being subverted to satisfy the greed of organized crime.

The Commission intends to continue its probing of the demonstrated depredations and will propose statutory and regulatory reforms to eliminate such abuses. We will submit proposals to the Governor and the Legislature of New Jersey as soon as possible.

As the Commission emphasized at the outset, these hearings were intended to expose and prevent mob-influenced abuses that permeate the closed-panel type of dental health-care plans. The Commission fully realizes that all professionally competent and honest dental practitioners, labor leaders and health care administrators share our abhorrence of the practices in this field. We are sure they also share our hope that the end result of our probe and hearings will be a more honest operation of such plans that puts the welfare of workers of this state ahead of excessive and questionable underworld cash rewards.

The Commission appreciates the expressed support for its inquiry from outside this state and is gratified by the investigative cooperation of numerous agencies such as the F.B.I., the Federal Organized Crime Strike Force and the United States Marshalls as well as by law-enforcement agencies in closeby Pennsylvania and New York with which the S.C.I. maintains constant and mutually beneficial liaison.

As might be expected, considerable evidence put into these public hearing records must be reviewed by the Commission for possible reference to the Attorney General's office and the State Police. However, this is a customary activity by the S.C.I. at the completion of all of its activities and cannot be discussed beyond this brief comment.

## LEGISLATIVE LIAISON

### *Public Insurance Procedural Reforms*

Subsequent to the distribution of the Commission's report on mishandling of public insurance transactions at the county and local level, S.C.I. staff consulted at length with a bill-drafting expert of the office of Legislative Services on the format of a bill that would comprise the various statutory reforms essential in this area. A bill was drafted that would achieve the Commission's investigative objectives listed on P. 17 of this annual report. This proposed Legislation would, in brief:

- Establish a State Office of Public Insurance Management in the Department of Community Affairs (attached to the department's Division of Local Government Services). This bill also prescribes the State Office's regulatory and monitoring responsibilities and requirements for assuring proper transactions fully open to public scrutiny and a freely competitive public insurance marketplace.
- Require of the State Insurance Department special licensure and qualification of agents, brokers and other insurance providers and of presently unlicensed consultants, risk managers and self-insurance administrators, and also require periodic reporting by such special licensees of all compensation from public insurance transactions, and provide sanctions against any willful violation of the proposed requirements.
- Prohibit any direct or indirect conflict of interest by any elected or appointed county or municipal official in connection with the purchase and management of public insurance programs.

The Commission submitted the proposed legislation to Senate President Joseph P. Merlino of Trenton and Assembly Speaker Christopher J. Jackman of West New York, accompanied by letters from the S.C.I.'s executive director, which stated in part:

*One of the 1979 amendments to the law creating this Commission demonstrated a legislative interest in initiating "changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law" as a result of*

*S.C.I. investigations. For this reason, the attached bill to institute statutory reforms in county and municipal public insurance practices and procedures is submitted to you with the hope that you will consider it worthy of formal introduction and consideration in the Assembly.*

*In addition, the Commission has urged the enactment of bills already pending in the Legislature to permit governmental entities to combine or pool for insurance purposes, to assure that governmental entities can negotiate deductible Workers Compensation insurance contracts, and to permit state-created authorities to purchase coverage direct from insurance companies, all of which would result in savings to taxpayers.*

*Concerning the attached bill draft, I am prepared on behalf of the Commission to discuss in a positive way any changes that you might suggest to improve its structure and its prospects for legislative approval.*

The Commission remains hopeful that this legislation will gain the approval of the Legislature and the Governor.

#### *Dental Care Law Recommendations*

The Commission's proposals for prohibiting further organized criminal influence in certain areas of the dental care plan industry were the first to be processed under requirements of the Legislature's 1979 amendments to the statute under which the S.C.I. operates. One new requirement was that the Commission's transmittal of its recommendations to the Governor and the Legislature be made within 60 days after the conclusion of a public hearing on the subject of such recommendations. Although its full report was not yet completed, the Commission complied with this 60-day rule by the timely submission of its recommendations for amending a 1980 law designed to regulate the activities of dental care plan organizations. Another new provision in the S.C.I. law required that the Commission notify the prime sponsor of any pending bill and the chairman of any standing committee considering such a bill that would be affected by its recommendations prior to issuing them. Since the Commission's recommendations included a request for favorable action on a pending proposed state version of the federal Racketeer Influenced and Corrupt

Organizations (RICO) law, timely notification of this action was made by the S.C.I. to Assemblyman Martin A. Herman of Woodbury as prime sponsor of the proposed State RICO Law and to Senator William V. Musto of Union City as the chairman of the Senate Judiciary Committee, where the Assembly-passed RICO bill was under consideration. The State RICO bill subsequently was approved by the Legislature and signed into law.

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

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

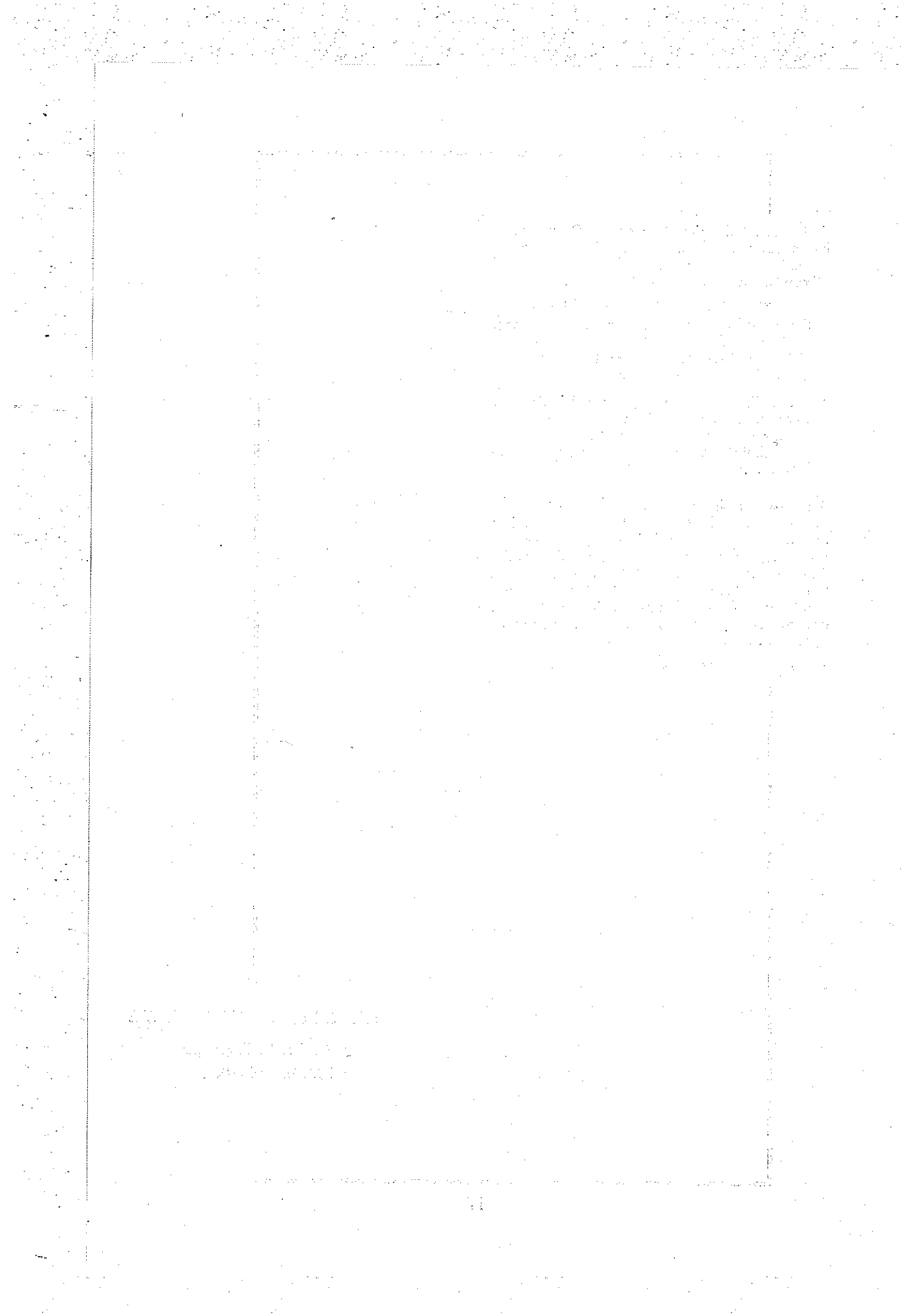
. . . . The Legislature's consideration of changes in or additions to existing provisions of law required for the more effective administration and enforcement of the law . . . \*

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

\* Excerpts from S.C.I. Law

#### THE GOVERNOR'S REQUESTS

- Truckers' Allegations
- HFA Investigation



## THE GOVERNOR'S REQUESTS

Under its enabling statute the S.C.I. is required, at the direction of the Governor or of the Legislature, to conduct investigations in connection with possible changes in existing law to achieve more effective administration and enforcement. During 1980, the Commission completed two separate investigations at the request of Governor Byrne.

### TRUCK UNLOADING ALLEGATIONS

The Commission in July, 1980, submitted to Governor Byrne its findings in connection with allegations his office had received about questionable unloading practices at truck terminals in New Jersey. In a letter of transmittal, Chairman Lane noted that:

*What problems have arisen as a result of lumping practices were found to be primarily economic in nature and interstate in range and thus not such as to warrant action at the executive or legislative level in this state. Therefore, our report concludes with a recommendation for strict enforcement of and full compliance with provisions for economically stabilizing the lumping process on an interstate basis in recently enacted federal legislation and that this state actively participate in a study of loading and unloading practices under the new law by the I.C.C.*

The Commission's report concluded with the following findings:

The Commission has concluded that the abuses reported to the Governor by the independent truckers concerning lumping activities in New Jersey are not widespread or serious. Hence, they do not merit a legislative or prosecutorial response at the state level in New Jersey.

Although complaints about lumping fees were frequent, they primarily reflected economic concerns on the part of the truckers. No extortionate practices or exorbitant lumping fees were uncovered. In fact, lumping fees that S.C.I. agents witnessed being nego-

tiated or paid at unloading points were almost universally within an industry-wide range of \$20-\$50 for such tasks. S.C.I. investigators did encounter truckers from time to time who reported instances of unusually high lumping fees, more than \$100, for example, to unload a truckload of watermelons, but these were of a hearsay nature and could not be validated.

As for lumping fees being "imposed" on truckers, the investigation determined that a few of the larger New Jersey terminals did require the utilization of lumpers, particularly for cargoes that exceeded a specified quantity or weight. The reason for such company policy, to expedite the movement of freight, is in the Commission's view a rational one. Such a lumping requirement is normally made known in advance to shippers and truckers alike. And in each case a trucker had the option to seek out and hire a lumper of his own choosing.

No evidence was found of gate fees or of attempted or actual extortion of such fees from independent truckers hauling freight to the 32 terminals inspected in this state. While the same complaints received by the Governor also were voiced in the presence of the Commission's investigators, many such grievances were found to stem from the truckers' experiences in other states, including New York, Pennsylvania, Maryland and California.

This is not to say that the Commission found lumping conditions in this state to be free of imperfections. To the contrary, the Commission was dismayed by the disorganized nature of the process and by its potential for generating more serious transgressions than presently exist.

Many lumpers gave drivers false identification data, including fictitious names and Social Security numbers, for incorporation in lumping receipts. S.C.I. agents also encountered truckers who unloaded their own cargoes but submitted false receipts for lumping to shippers who had agreed to pay unloading charges. It was impossible to ascertain the full extent of such incidents.



The allegations reported to the Governor and repeated at various times to the Commission's agents generally coincided with the frustrations of independent truckers coping with extraordinary inflationary pressures. In addition, such complaints gained at least a superficial appearance of credibility because of the general disarray in the lumping process at most terminals.

However, since lumping as an industry-wide practice is national in scope, what difficulties the practice has generated can be resolved more appropriately by federal legislation and by regulatory action by the Interstate Commerce Commission, rather than by individual states. California, apparently the only state that has attempted to regulate the process itself, enacted a law in 1978 that was designed to promote the orderly marketing of farm products by establishing a pricing framework for unloading. The preamble to this statute declares that in some California markets charges for unloading farm products were exorbitant. However, this law did not remove the drivers' responsibility for unloading but only required that unloaders be registered and that they be paid fees established by regulation. Under California law, lumping fees are significantly higher than the average fees negotiated in New Jersey.

During the Commission's assessment of its investigative findings, federal legislation designed to improve the efficiency and competitiveness of trucking industry operations began to make progress in the Congress. Since this legislation contained provisions for stabilizing loading and unloading practices, the Commission believed it could become the most effective way to respond to truckers' complaints about lumping problems.

As this report approached completion, the U.S. Senate and House of Representatives concurred in the passage of the Motor Carrier Act of 1980 and sent it to the White House for the President's approval. This 83-page measure contained several pages of requirements responding on an industry-wide basis to

similar complaints with regard to lumping conditions that independent truckers had voiced to the Governor and the Commission's investigators.

These federal requirements included:

- Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce . . . be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

- The (Interstate Commerce) Commission shall require, by regulation, that any arrangement between a motor carrier of property providing transportation subject to the jurisdiction of the Commission . . . under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

- A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United

States Government for a civil penalty of not more than \$10,000 for each violation.

The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.

- It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce . . . to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the . . . Norris-LaGuardia Act.

- The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation.

The new law, in addition to imposing fines of not more than \$10,000 for each violation of the stated lumping requirements, additionally provides for imprisonment of not more than 2 years for violators of prohibitions against coercion or attempts to coerce in the loading and unloading process.

These sections of the Motor Carrier Act not only support the Commission's conclusions that problems

generated by loading and unloading practices can only be addressed on a nationwide basis, but also provide as noted for a thorough study of these practices under the revised statute within an 18-month period.

*Recommendations*

- In view of the Commission's findings, it is concluded that no legislative or regulatory action need be taken by the State of New Jersey with regard to the recorded complaints of independent truckers. Instead, the Commission urges both strong enforcement of and full compliance with new federal statutory requirements designed to eliminate basic industry-wide problems generated by current practices.

- The Commission recommends that the Governor, Legislature and independent truckers of New Jersey take an active, affirmative part in the study that new federal law requires the I.C.C. to conduct of loading and unloading practices. The Commission is prepared to submit its investigative findings in full detail as well as any desired supportive testimony in connection with this required I.C.C. review.

**INVESTIGATION OF THE NEW JERSEY  
HOUSING FINANCE AGENCY**

This report, the first of two on the Commission's inquiry into the H.F.A., has been published. Copies are available upon request at the Commission's office in Trenton.

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

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

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

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

\* Excerpts from S.C.I. Law

**LAW ENFORCEMENT LIAISON**

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

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## **LAW ENFORCEMENT LIAISON**

### **INTRODUCTION**

The Commission last year was contacted by telephone or mail 98 times for various types of assistance from county, state and federal law enforcement agencies in New Jersey and from such agencies in the states of Florida, Illinois, Maryland, Michigan, New Mexico, New York, Washington and Texas. These contacts generated 790 requests for specific assistance, according to data recorded by Commission staff, and all requests were expedited. Additionally, the Commission passed 12 resolutions in response to formal requests for confidential Commission information from various New Jersey law enforcement and regulatory agencies. Several referrals of possible evidence of criminality were also made pursuant to *N. J. S. A. 52:9M-8*, of the S.C.I.law. Investigations with regard to these referrals are presently pending.

### **LIAISON WITH THE ATTORNEY GENERAL**

During 1980, the Commission continued its heightened and constant liaison with the Office of the Attorney General and various components of the Department of Law and Public Safety. This liaison was carried out through high-level meetings by the Commissioners with Attorney General John J. Degnan and ranking members of his staff, and with Degnan's successor, James R. Zazzali. Additionally, Commission supervisory personnel met on a regular and ongoing basis with the staff of Edwin H. Stier, Director of the Division of Criminal Justice. Due to mutual interests, additionally, the staff of the Commission and the staff of the Attorney General's office, particularly the Division of Criminal Justice, met on literally scores of occasions during the course of the year with regard to day-to-day activities.

One of the primary interests which the Commission seeks to satisfy through this particular close liaison is the creation and maintenance of a dialogue with the chief prosecutorial office in the state so that the Commission can discover and, in appropriate cases, address broad-based problems in the area of criminal justice reform. A present ongoing Commission inquiry is a direct result

of such liaison and, similar to the Commission's absentee ballot law investigation, will be reported upon by the Commission in the future.

The Commission staff and the staff of the Attorney General's office continue to work on the production of appropriate legislation resulting from public hearings and reports produced by the Commission so that the best possible legislative initiative will result. Of particular note in this area at this time is the legislation resulting from the Commission's absentee ballot law hearings and presently pending legislation concerning the New Jersey State Medical Examiner's office.

#### **LIAISON WITH COUNTY PROSECUTORS**

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

In addition to the continued cooperation previously described, several Commission staff members have from time-to-time during 1980 been borrowed by the staff of various county prosecutors for certain specific investigatory functions ranging from grand jury testimony to the providing of specific accounting expertise. The Commission considers this activity an important facet in its overall liaison with the county prosecutors.

#### **REFERRAL OF EVIDENCE**

As stated previously, the Commission is required by its enabling statute to refer matters to other agencies for investigation and prosecution. While many of these matters are ongoing at this time, the case of Ralph Tomasulo, referred to the Division of Criminal Justice in 1980, is discussed below.

The S.C.I.'s investigation of New Jersey's Housing Finance Agency led to the referral of a criminal matter to the Attorney General's office involving HFA vehicle coordinator Tomasulo of Trenton, who had accepted kickbacks from various auto dealers for steering agency purchases to them. These kickbacks, commonly



known as "bird dog" fees, were paid to Tomasulo for influencing the purchases of cars for the agency from a certain dealer in the Spring and Summer of 1980. After this matter was referred to the Division of Criminal Justice, Tomasulo was indicted by the State Grand Jury. He pled guilty to the indictment on September 24, 1980. He was sentenced to a year's probation, fined \$1,000 and ordered to make restitution of \$8,000.

#### INTERSTATE COOPERATION

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

During and subsequent to the Commission's investigation of the dental health care plans, the Commission received from and conveyed to outside law enforcement agencies significant information concerning the methods of operation and individuals involved in infiltration of these plans by organized crime groups. Commission personnel traded information with law enforcement agencies in Washington, D. C., New York City, Buffalo, Detroit, Philadelphia, Chicago and Cleveland. Since the Commission considers the problem of infiltration into such health care organizations to be multifaceted in design and national in scope, this ongoing liaison and exchange of information was of particular significance to the Commission's work in 1980. The Commission has received information from several of these jurisdictions concerning their heightened interest in this area as a direct result of the Commission's public hearings. The Commission, in fact, has assisted presently ongoing investigations in various other jurisdictions regarding this current problem of organized crime infiltration.

#### NATIONAL ORGANIZATION OF INVESTIGATORY COMMISSIONS

The S.C.I. continued its membership and activities in the National Organization of Investigatory Commissions (NOIC) during 1980. NOIC was created in Princeton in 1978 when the New Jersey S.C.I. called five other similar state commissions into a conclave to consider the concept of a national group. This national organization has as its primary purpose the interchange of information concerning common problems and the maintenance of a dialogue on policy and legal matters relevant to each of the members' commissions.

NOIC now has seven member agencies. In addition to New Jersey's S.C.I., they include investigative bodies from Hawaii, Illinois, New Mexico, New York, Pennsylvania and West Virginia.

During 1980 NOIC continued its project of communicating with the various other states in the country about the possible creation of such an investigative body in those jurisdictions. Several state legislatures are at this time considering statutory measures which would create investigatory commissions in their jurisdiction. Several states have asked for information from NOIC concerning the overall concept. NOIC is continuing to communicate and correspond with these states in order to promote the concept of independent, bipartisan State investigating agencies.

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

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

**COMMISSION STAFF**

- Performance,  
Self-improvement



## **COMMISSION STAFF**

### **STAFF PERFORMANCE**

The Commission's staff during 1980 consisted of 41 individuals, including 6 lawyers, 6 accountants and 14 special agents. As in previous years, the staff continued to expand its professional caliber by attending various law enforcement seminars and conferences and accredited educational courses related to their work.

In addition to enrolling for appropriate lectures sponsored by the Institute for Continuing Legal Education, S.C.I. lawyers accepted invitations to speak or conduct panel discussions at professional meetings and before citizen groups. All of the Commission's counsel have had trial or investigative experience in actions against organized crime. One came to the agency after serving as an assistant county prosecutor.

The Commission's accountants not only kept abreast of advances in their field but also shared their knowledge and experience with other law enforcement agencies, particularly in the area of white collar crime and as lecturers at the New Jersey State Police Academy. The chief S.C.I. accountant's paper on "The Accountant as an Expert Witness" was accepted by the U.S. Department of Justice's Criminal Justice Reference Service as part of its bibliographic data base. One staff accountant successfully completed requirements for designation as a certified public accountant, bringing to two the number of CPAs on the staff. Four accountants hold Master of Business Administration postgraduate degrees and another is a candidate for such a degree. Two of the S.C.I. accountants are former veteran investigators for the U.S. Internal Revenue Service.

Special courses and seminars on white collar crime, government corruption, organized crime and other law enforcement problems are also attended periodically by the Commission's special agents. In addition, the wide-ranging professional background of these agents has been particularly helpful in the successful completion of the Commission's unusually varied investigations. Collectively, this background includes previous careers or tours of duty with the U.S. Justice Department, the U.S. Senate's organized crime investigations, the Federal Bureau of Investigation, the State

Police, various county prosecutor's offices, the Pennsylvania Crime Commission, many municipal police departments, the NY-NJ Waterfront Commission, a county sheriff's department, and the Military Police. One or another of the special agents periodically presides at regularly scheduled meetings of delegates from approximately 40 federal, state, county and municipal law enforcement agencies from a five-state area. These meetings are designed to develop closer investigative liaison and to review law enforcement matters of mutual concern.

In addition, all staff members with supervisory obligations have attended in-house training courses in managerial responsibilities and are participating in continuing programs in employer-employee communications.

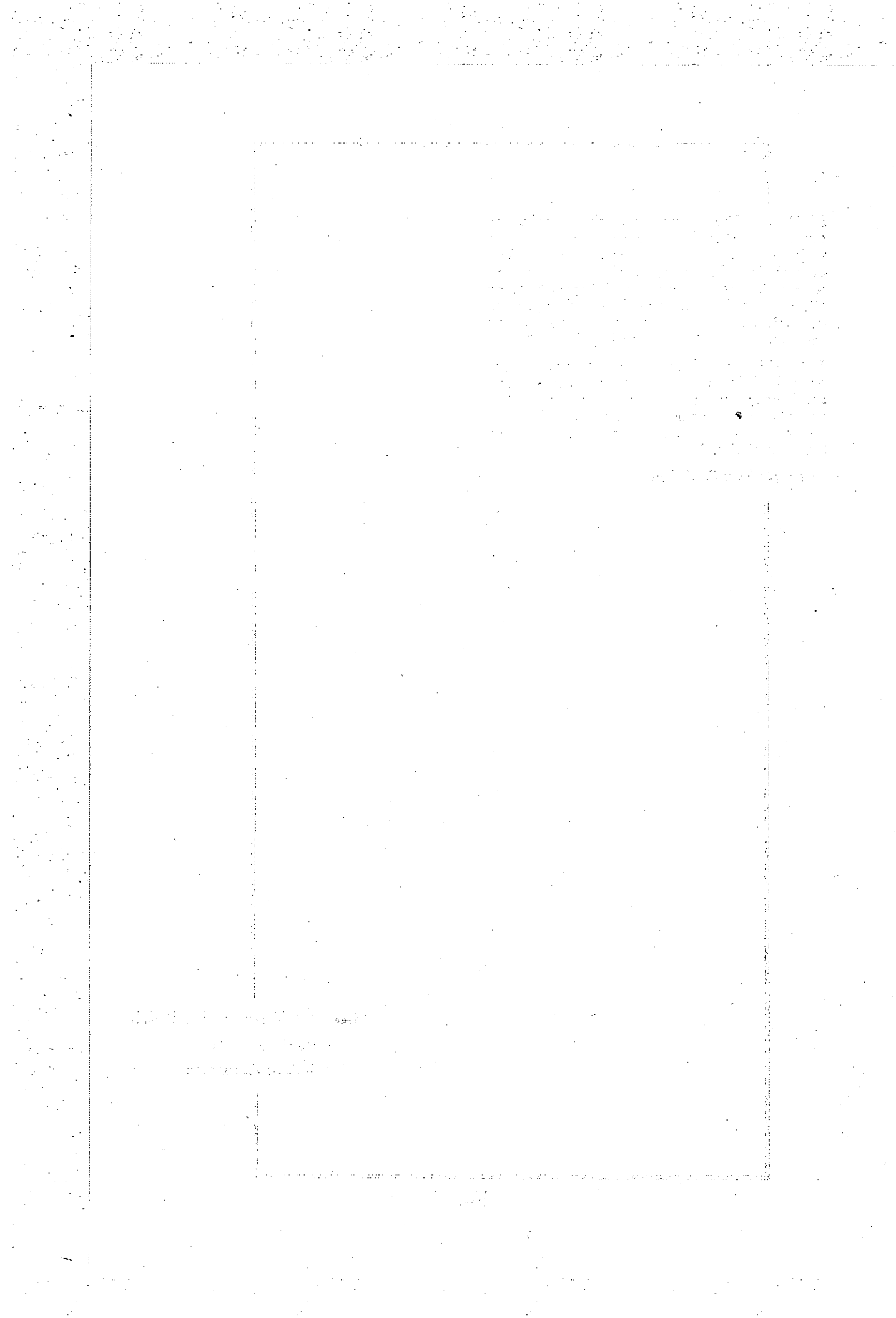
52:9M-10. The Commission shall make an annual report to the Governor and Legislature which shall include its recommendations. The Commission shall make such further interim reports to the Governor and Legislature, or either thereof, as it shall deem advisable, or as shall be required by the Governor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

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

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

#### **LIAISON WITH THE PUBLIC**

- **Public Reports**
- **Citizen Assistance**





## *LIAISON WITH THE PUBLIC*

### **PUBLIC REPORTS**

Since its inception the Commission has held a total of 22 public hearings on various law enforcement problems. These hearings were conducted in accordance with the Commission's statutory mandate to publicly demonstrate wrongdoing uncovered by fact-finding investigations. Each of these hearings was followed by a public report to the Governor and the Legislature summarizing investigative findings, reviewing hearing testimony and recommending legislative and regulatory reforms. Many of these recommendations were implemented, as detailed in a summary of major investigations in the Appendices Section of this annual report. In addition, the Commission since 1969 also issued 12 public reports on investigations which did not warrant a public hearing procedure.

A brief listing of these 34 public actions by the S.C.I. during the past decade illustrates the wide-ranging variety of allegations and complaints that, by formal authorization of the Commission, were subjected to the traditional process of probes, hearings and public reports. In the organized crime field, the Commission's continuing confrontation of high-ranking mob figures was highlighted by public hearings and reports on organized crime influence in Long Branch and Monmouth County (1970), organized crime activities in Ocean County (1972), narcotics trafficking (1973), infiltration of legitimate businesses in Atlantic City (1977), and organized crime incursions in the dental health care industry (1980). In addition, investigations in other law enforcement areas that were subjected to both public hearings and reports included: State cleaning services' abuses (1970), state building service contractual irregularities (1970), Hudson County Mosquito Commission corruption (1970), Jersey City waterfront land frauds (1971), workers compensation misconduct (1973), misuse of surplus federal property (1973), pseudo-charity solicitations (1974), Lindenwold borough corruption (1974), medicaid-clinical labs (1975), Middlesex land deals (1976), prison furlough abuses (1976), medicaid nursing home schemes (1976-7), improper conduct by private schools for handicapped children (1978), absentee ballot law transgressions (1978), and mishandling of public insur-

ance programs (1979). Further, although no public hearings ensued, critical public reports and corrective recommendations followed the Commission's investigations of the garbage industry (1970), an Atlantic County embezzlement (1971), Stockton College land deals (1972), the Attorney General's office (1973), Middlesex bank fraud (1973), conflicts of interest on the Delaware River Port Authority (1974), medicaid nursing home cost reimbursements (1975), medicaid "mills" (1976), casino control law problems (1977), medicaid hospital problems (1977) and wrongful tax deductions from public employees' injury leave wages (1979).

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

#### **CITIZENS ASSISTANCE**

As in past years, hardly a week passed in 1979 that the Commission did not receive requests for investigative action, assistance or advice from citizens of New Jersey. Commission records indicate more than 250 such citizen contacts, mostly for the purpose of filing complaints about law enforcement and other problems affecting them or their communities. The Commission staff's discussions and reviews of citizen complaints alone required an average of more than a half-hour per contact.

**APPENDICES SECTION**

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

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## APPENDIX I

### RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS

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

#### 1. ORGANIZED CRIME CONFRONTATIONS\*

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

\* See New Jersey State Commission of Investigation, Annual Reports since 1969.  
See also Pp. 9-16 of this Annual Report.

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

As part of this program of confrontation, nine organized crime figures who were served with subpoenas elected to undergo extended periods of court-ordered imprisonment for civil contempt for refusing to answer S.C.I. questions. In addition, certain organized crime figures remain under S.C.I. subpoena for either continuing or future testimony, including Simone Rizzo (Sam the Plumber) DeCavalcante, Carl (Pappy) Ippolito and Joseph Paterno. Among the many organized crime figures known to have fled New Jersey in an effort to avoid being served with S.C.I. subpoenas are Anthony (Tumac) Acceturo of Livingston, Emilio (The Count) Delio and Paterno of Newark, Joseph (Demus) Covello of Belleville, John (Johnny D) DiGilio of Paramus, Tino Fiumara of Wyckoff, John (Johnny Keys) Simone (murdered in Staten Island in September, 1980), and Ippolito. The attempt by a number of these to seek alternate places of residence, primarily in South Florida, has been interrupted from time to time by federal and state indictments charging various criminal violations.

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

Of these nine, four gained release from jail only after agreeing to testify before the Commission. These four were Angelo Bruno (murdered in Philadelphia in March, 1980), Nicodemo (Little Nicky) Scarfo, Anthony (Little Pussy) Russo (murdered in Long Branch in April, 1979) and Nicholas Russo. A fifth, Gerardo Catena, who had been imprisoned in March, 1970, was ordered released in 1975 by the New Jersey State Supreme Court, which ruled that imprisonment had lost its coercive effect because he had demonstrated a resolve never to testify. Similarly, two others, Ralph (Blackie) Napoli and Louis (Bobby) Manna, subsequently gained release after long periods of incarceration. An eighth, John (Johnny Coca Cola) Lardiere, who had been jailed since 1971 for refusing to testify before the S.C.I., was shot to death in 1977 while on a court-ordered Easter furlough. The ninth, Joseph (Bayonne Joe) Zicarelli, is on temporary medical furlough from jail.

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

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

## 2. THE GARBAGE INDUSTRY\*

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

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

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

## 3. ORGANIZED CRIME IN MONMOUTH COUNTY\*\*

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

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

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

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

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

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

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

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

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

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



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

#### **4. THE STATE DIVISION OF PURCHASE AND PROPERTY\***

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

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

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

#### **5. THE BUILDING SERVICES INDUSTRY\*\***

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

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

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

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

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

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

## 6. THE HUDSON COUNTY MOSQUITO COMMISSION\*

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

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

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

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

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

## **7. MISAPPROPRIATION OF FUNDS IN ATLANTIC COUNTY\***

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

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

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

## 8. DEVELOPMENT OF POINT BREEZE IN JERSEY CITY\*

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

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

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

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

## 9. TACTICS AND STRATEGIES OF ORGANIZED CRIME\*\*

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

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

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

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

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

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

#### 10. PROPERTY PURCHASES IN ATLANTIC COUNTY\*

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

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

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

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

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

#### **11. BANK FRAUD IN MIDDLESEX COUNTY\***

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

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

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

#### **12. THE OFFICE OF THE ATTORNEY GENERAL\*\***

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

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

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

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

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

### 13. THE WORKERS' COMPENSATION SYSTEM\*

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

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

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

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

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

#### **14. MISUSE OF SCHOOL PROPERTY IN PASSAIC COUNTY\***

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

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

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



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

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

## **15. THE DRUG TRAFFIC AND LAW ENFORCEMENT\***

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

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

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

#### **16. PSEUDO-CHARITABLE FUND-RAISING APPEALS\***

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

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

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

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

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

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

#### **17. THE DELAWARE RIVER PORT AUTHORITY\***

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

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

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

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

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

#### 18. THE GOVERNMENT OF LINDENWOLD\*

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

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

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

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

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

#### 19. LAND ACQUISITION BY MIDDLESEX COUNTY\*

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

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

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

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

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

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

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

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

## 20. PRE-PAROLE RELEASE IN THE PRISONS\*

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

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

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

\* See New Jersey State Commission of Investigation Eighth Annual Report, issued in April, 1977.

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

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

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

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

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



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

## **21. THE NEW JERSEY MEDICAID PROGRAM\***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **22. ORGANIZED CRIME AND CASINO GAMBLING IN ATLANTIC CITY\***

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

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

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

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

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

These hearings disclosed:

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

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

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

*Based on the Commission's recommendations, two bills were sponsored by Senator Steven P. Perskie, D-Atlantic. One bill, S-3008, was designed to strengthen the licensing requirements of the State Division of Taxation for those involved in the cigarette industry and the other, S-3010, sought stronger licensing standards for the Alcoholic Beverage Commission. The purpose of these bills was "to impede organized crime from using various subterfuges to camouflage the actual ownership and control of legitimate business." Senator Perskie's bills were approved by the Senate in May, 1979, but only S-3008, pertaining to the cigarette industry, passed in the Assembly and was signed into law in February, 1980.*

## 23. PRIVATE SCHOOL ABUSES OF SPECIAL EDUCATION FUNDS\*

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

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

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

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

In brief, the recommendations included:

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

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

#### 24. ABUSES AND IRREGULARITIES IN THE BOARDING HOME INDUSTRY\*

The Commission's investigation of abuses and irregularities in New Jersey's boarding homes focused on an industry consisting of an estimated 1,800 facilities serving upwards of 40,000 people,

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



most of whom are elderly and disabled. These boarding facilities were assigned to one of two categories—licensed or “unlicensed.” The former group consisted of about 275 boarding homes under State Department of Health licensure. But the unlicensed category was further divided, the largest subgroup of which was subject to nominal registration and inspection by the State Department of Community Affairs. A smaller bloc came under local jurisdiction. Finally, an unknown number of facilities operated illegally, devoid of any controls whatsoever.

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

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

Because of inadequate (and often the absence of) boarding home account books, registers and other records reflecting the flow of revenues, costs and clients, the Commission’s staff accountants had to reconstruct numerous financial profiles in order to ascertain the true extent of the mismanagement of these facilities and the resultant abuses against boarders that such misconduct generated. The facts exposed by such audits were confirmed and supplemented through field inquiries by the Commission’s special agents. This investigative team work revealed a wide gamut of irregularities and improprieties—the diversion of SSI checks from boarders to the personal use of operators, charging of luxury cars, vacation travel and other personal expenses as business costs, an inordinate use of cash in payment of boarding home bills without supportive receipts, little or no accounting of personal funds doled out to boarders each month, excessive compensation to operators and to relatives of operators, use of unlicensed satellite facilities as way stations for boarder-transfers that improperly increased the cash flow into licensed homes of bigger SSI checks than war-

ranted, and the serving of cheap, substandard food even while the operators netted disproportionately large profits.

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

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

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

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

*After hearings in which the S.C.I. participated, the Legislature enacted a new state law designed to provide greater protection for boarding home residents. This law, which took effect on September 1, 1980, established a bill of rights for boarders and set more stringent state standards for the operation of facilities. However, it did not include the S.C.I.'s primary recommendation to centralize overall control responsibilities in a single agency of state government.*

*Also during 1980, John J. Fay, the State Ombudsman for the Institutionalized Elderly, filed a class action suit on behalf of 16*

*recipients of SSI checks seeking "declarative and injunctive relief and damages" from seven licensed boarding home operators for allegedly withholding all or part of the boarders' Federal Energy Allowance checks. The defendants included one operator in Long Branch who had invoked his 5th Amendment privilege against self-incrimination 32 times when he appeared as a subpoenaed witness at the S.C.I.'s public hearings on boarding home abuses. In addition, the S.C.I. provided the House Select Committee on Aging and the Federal General Accounting Office with copies of its report on boarding homes and audits and other data resulting from the Commission's investigations in support of a Congressional inquiry into the nation's boarding homes. During this inquiry, the House Committee subpoenaed the records of a Camden boarding home which had been a target of the S.C.I.'s investigation and public hearings.*

## **25. ABUSES OF NEW JERSEY'S ABSENTEE BALLOT LAW\***

The Commission's public hearings in late 1978 on absentee ballot abuses and irregularities climaxed a prolonged series of inquiries by the S.C.I. and other state and county law enforcement agencies, and by the press, in numerous localities of the state. These investigations confirmed a widespread and flagrant disregard of a law that, although enacted with the intention of safeguarding the sanctity of the ballot for eligible voters unable to go to the polls in person, was so ambiguously constructed as to invite fraud at every step of the absentee voting procedure. So inadequate was this law—as probes by Attorney General John J. Degnan's office and by various county prosecutors particularly illustrated—that effective prosecution of obvious violators was practically impossible. The statute's contradictions, restrictions and loopholes defied the most vigorous prosecutorial attempts to indict and convict individuals who coerced voters to advance their own personal and political ambitions, who improperly distributed and collected absentee votes in bargain-basement fashion, and who forged signatures and altered ballots. Because of the persistent statutory impediments, the Attorney General launched with the S.C.I. a cooperative effort to expose these violations to public scrutiny. It was felt that, by utilizing the Commission's traditional fact-finding and public hearing functions, resultant public awareness of and concern about the situation would spur enactment of essential reforms.

\* See New Jersey State Commission of Investigation annual report for 1978.

The Commission's probe, which extended into many areas of the state, uncovered numerous incidents of misuse and abuse of the law. The Commission's investigators found evidence of irregularities that ranged widely—beginning where the absentee ballot procedure begins, with the application for a ballot, and disrupting with increasingly adverse impact each succeeding step, including:

- The approval or rejection of the ballot application . . .
- The return of the ballot to the voter who has declared he cannot vote in person . . .
- The marking of the ballot by the intended absentee voter (or some one ostensibly authorized to "assist" such a voter) . . .
- The submission of the completed ballot to proper election officials . . .
- And the certification of the completed ballot as a valid vote to be cast and counted.

In certain localities an almost total emasculation of the absentee ballot law occurred. The investigation thus centered on those municipalities where the abuses were not only numerous and gross but also representative of particular patterns of misconduct that were widespread in practice.

Because of the difficulty of criminal prosecution under a statute that stymied such law enforcement activity, various prosecutorial agencies joined with the Commission in developing an exposé of the abuses. The result of this cooperation with the Commission by the Attorney General's staff (including Deputy Attorney General Charles Sapienza, a former S.C.I. counsel) and by county prosecutors, was a productive sharing of investigatory files and tasks. This inter-agency cooperation demonstrated the unity of support within the law enforcement community for the implementation of legislative reforms.

*Both during and after the Commission's investigation and public hearings into official abuse and misuse of the Absentee Ballot Law, constant communication was maintained with legislative and executive officials on the problem of statutory reforms. The task of closing election law loopholes to further improprieties was particularly difficult because of the necessity to make required changes that would not infringe on the constitutional privilege of all eligible voters to cast a secret ballot for candidates of their choice. A series of law amendments were drafted after discussions with legislators,*

*with affected law enforcement entities and with Secretary of State Donald Lan. The Commission believes that the unity of purpose and effort by New Jersey's law enforcement community and the Legislature behind pending Absentee Ballot Law reforms will encourage their enactment and effective implementation.*

## **26. INCORRECT INJURY LEAVE PRACTICES\***

During the course of the Commission's investigation of county and municipal public insurance transactions (see below), an interim public report was issued in an effort to proscribe misguided procedures that had already cost county and municipal employees at least \$1 million in incorrect social security and income tax deductions during the five-year period prior to 1979 from wages paid to these employees in accordance with governmental injury leave policies. The interim report highlighted recommendations to bring to an immediate halt such wrongful tax deductions and to expedite efforts to assist such employees recoup their losses before a three-year statute of limitations barred recovery for inappropriate deductions imposed during 1975.

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

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

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\* See New Jersey State Commission of Investigation "Report and Recommendations on Incorrect Injury Leave Practices," issued in January, 1979.

*In the June, 1980, issue of State Government News, an article noted that nearly all of the 43 state governments that voluntarily contribute to Social Security are perhaps unnecessarily making tax payments on employees' sick pay as well as on wages. The article, which noted that the Council of State Governments was monitoring this problem, made the following observation applicable to the period subsequent to the issuance of the S.C.I.'s interim report:*

*"Many states may be entitled to refunds for retroactive payments of FICA on sick leave under the three-year statute of limitations. New Jersey anticipates a savings of \$3 million a year, and the state has claimed retroactive adjustments."*

## **27. INADEQUATE SUDDEN DEATH INVESTIGATIONS\***

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

The Commission recommended that the State Medical Examiner be empowered to establish and direct a statewide regional medical examiner system of at least three multi-county offices, one of which would be operated in conjunction with the state office at the developing New Jersey Institute of Forensic Science in Newark. Each regional office would be directed by a forensic pathologist with a trained fulltime staff and facilities adequate for the size and type of region established. The cost to the state of these regional offices would be offset annually by participating counties to the extent of their county medical examiner expenditures for the year 1979. In addition, the Commission recommended that county prosecutors establish with municipal police departments coordinating procedures that would include pre-qualification by a prosecutor of certain municipal departments as capable of conducting initial sudden death investigations. Such pre-qualified municipal police

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

departments would assume control of death probes until developments required intervention by a prosecutor; in all other cases, county prosecutors would assume immediate control of death inquiries in liaison with the appropriate regional medical examiner. Stiffer performance requirements for municipal police were recommended, including completion of police training programs before undertaking police duties, special qualification standards for homicide, narcotics and other specialized investigations and continuous in-service training.

*During 1980 proposed revisions of the State Medical Examiners Act, and related statutes, were being developed by Deputy Attorney General William F. Bolan, Jr., chief of the Criminal Justice's Division of Educational and Legislative Services, and Acting State Medical Examiner Robert Goode. These proposals will be subject to further review by the Governor's office, county prosecutors and medical examiners, and the S.C.I., prior to submission by the Governor of a reform bill to the Legislature.*

## **28. QUESTIONABLE PUBLIC INSURANCE PRACTICES BY GOVERNMENTAL ENTITIES**

Following a three-day public hearing, the Commission issued a 367-page report on public insurance problems and abuses in 1980. A summary of the Commission's action and recommendations appears on Pp. 22-23 of this annual report.

## **29. ORGANIZED CRIME INFILTRATION OF DENTAL CARE ORGANIZATIONS**

A three-day public hearing in December, 1980, climaxed an S.C.I. investigation that confirmed the incursion of organized crime elements into dental care plans negotiated by private entrepreneurs with certain labor unions.

## **30. INVESTIGATION OF THE NEW JERSEY HOUSING FINANCE AGENCY**

The Commission issued its report on its HFA probe in March, 1981.

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## APPENDIX II

### *S.C.I. STATUTE*

*New Jersey Statutes Annotated 52:9M-1, Et Seq.*

L. 1968, C. 266; as amended by L. 1969, C. 67,  
L. 1970, C. 263, L. 1973, C. 238, and L. 1979, C. 254.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
530 CHICAGO HALL  
CHICAGO, ILLINOIS 60637

RECEIVED  
JAN 10 1964

FROM  
J. H. DUNN, JR.