

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION



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State of New Jersey

COMMISSION OF INVESTIGATION

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January 1997

Governor Christine Todd Whitman
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally submits, pursuant to N.J.S.A.
52:9M, its 28th annual report for the year 1996.

Respectfully,

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WHY THE SCI

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

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

The fundamental worth of this agency was reaffirmed during 1996 by legislative and gubernatorial action extending the Commission's statutory operating authority for a period of six years. The renewal statute embodied the central recommendation of a special review committee, which, after extensive study and hearings relative to the SCI's operations and authority, concluded that the Commission “continues to perform a unique and valuable service by providing New Jersey and its citizens a non-partisan, independent body which can review and investigate matters which affect the confidence of citizens in their government.”

During 1996, the Commission bolstered its record of exemplary public service with wide-ranging investigations bearing on new trends in organized crime and on matters of ethics in

government. In each instance, the public was alerted to a range of serious problems and to the need for systemic reforms.

An investigation conducted jointly by the SCI and agencies in New York and Pennsylvania culminated in June with the release of a report documenting the proliferation of criminal elements emanating from within the former Soviet Union. This probe, conducted under the aegis of the Tri-State Joint Soviet-Emigre Organized Crime Project, produced the first comprehensive public assessment of the threat posed to this region by the so-called “Russian Mafia.” Investigative agents from the New Jersey SCI, the New York State Commission of Investigation, the New York State Organized Crime Task Force, and the former Pennsylvania Crime Commission conducted the investigation in conjunction with criminal justice experts from Rutgers University.

On governmental ethics, the Commission in October completed an investigation of questionable circumstances surrounding the divestiture of private insurance interests by Drew Karpinski, the former state Insurance Commissioner. The report of this investigation included recommendations for overhauling the Executive Branch system of ethics oversight and enforcement. Key elements of the SCI's reform proposals were swiftly endorsed on a bipartisan basis by the Whitman administration and by prominent members of the Legislature.

The Commission emphasizes that the true measure of its continuing workload far exceeds investigations completed during the past year. Beyond the public activities detailed in this annual report, the Commission and its staff currently are conducting a range of significant investigations at

various stages involving all elements of the Commission's statutory purview, including organized crime, political corruption and waste and abuse of government funds. In that regard, nearly 100 Commission subpoenas were served during 1996 seeking access to scores of individuals, thousands of documents and a range of other exhibits relevant to those active investigations. In addition, 20 Commission executive sessions were held at which confidential testimony was received from 26 witnesses.

As in past years, barely a week passed during 1996 that the Commission did not receive requests for investigative action, assistance or advice from citizens of New Jersey. Commission records include more than 120 such citizen contacts via mail and telephone requiring evaluation and response.

In sum, 1996 proved to be one of the most crucial years in the Commission's history. While gaining a new lease on life with statutory reauthorization, the Commission also confronted the effects of continuing budgetary constraints that have diminished substantially the resources available for difficult and complex investigations. During the past six fiscal years, the Commission's operating budget has been reduced from \$2.8 million to \$1.9 million, and its staff from 45 to 28 members. This trend should be measured against the status of this agency as a sensible investment of taxpayer dollars. The Commission has demonstrated repeatedly in the past — and will continue to do so in the future — that its operating cost is far outweighed in savings generated by efficiencies, reforms and improvements instituted as a result of its service to the public.

The Commission's public documents, including the full text of reports of investigations, is now available electronically via computer and the World Wide Web. The Commission's address on the Internet is **<http://www.state.nj.us/sci/>**

HISTORY

The Commission was established in 1968 after extensive research and public hearings by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey (the “Forsythe Committee”). That panel was directed by the Legislature to find ways to correct a serious and intensifying problem involving organized crime and political corruption. The panel's final report, which confirmed a crisis in crime control, attributed the expanding activities of organized crime to “failure . . . in the system itself, official corruption, or both.” As a result, sweeping recommendations for improving various areas of the criminal justice system were proposed.

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

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

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

The Commission was given the responsibility to maintain a constant vigil against the intrusion of organized crime into society, to expose systemic wrongdoing or governmental laxity via fact-finding investigations, and to recommend new laws and other remedies to protect the integrity of the governmental process. The Division of Criminal Justice and other prosecutorial agencies were given the responsibility to seek indictments or file other charges of violations of law and to bring the violators to justice, where appropriate.

Legislation creating the SCI established an initial term beginning January 1, 1969, and ending December 31, 1974. The Legislature extended the term of the SCI for five-year periods on four subsequent occasions: in 1973 for a term expiring December 31, 1979; in 1979 for a term expiring

December 31, 1984; in 1984 for a term expiring December 31, 1989, and in 1989 for a term expiring December 31, 1994. On Dec. 28, 1994, legislation took effect extending the Commission's term through June 30, 1996, pending the outcome of a review by a special committee appointed by the Governor, the President of the Senate and the Speaker of the General Assembly. On February 7, 1996, the review committee recommended that the Commission's operating authority be extended for six years, until July 1, 2002. Legislation incorporating this central recommendation was enacted into law with Governor Whitman's signature on June 28, 1996.

The unique and complementary role of the Commission has been noted repeatedly in three separate and comprehensive reviews that have been conducted of the SCI's operations — in 1975, 1983 and 1995. In each instance, the reviewing panel found that the SCI performs a valuable function and strongly concluded that there is a continuing need for the Commission's work. The most recent review report summarized this view, stating, “. . .[I]t is crucial to New Jersey that its citizens have confidence that government on all levels is operating appropriately and efficiently. The SCI is uniquely positioned to expose corruption and mismanagement to New Jersey residents and to make recommendations aimed at improving New Jersey's system of government.”

OPERATIONS

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

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

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

The enabling statute provides further that the Commission shall, by direction of the Governor or by concurrent resolution of the Legislature, conduct investigations and otherwise assist in connection with the removal of public officers and in the making of recommendations to the Governor and the Legislature with respect to changes in existing law required for more effective

enforcement. The Commission also is empowered to investigate the management or affairs of any department, board, bureau, commission, authority or other agency created by the state, or to which the state is a party.

The statute assigns to the Commission a wide range of responsibilities and powers. It may conduct public and private hearings, compel testimony and the production of other evidence by subpoena and has authority to grant limited immunity from prosecution to witnesses. Since the Commission does not have prosecutorial functions, it is required to refer information of possible criminality immediately to the Attorney General.

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

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

appearing before the Commission at public or private hearings. Additionally, any individual criticized in a proposed SCI report is, by law, given an opportunity to review relevant portions of the report. The individual may then submit a written response which shall be included in the final report. As a practical matter, the Commission always has been careful to evaluate investigative data in private in keeping with its obligation to avoid unnecessary stigma and embarrassment to individuals.

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

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

INVESTIGATIONS AND REPORTS - 1996

RUSSIAN-EMIGRE CRIME IN THE TRI-STATE REGION

The Commission joined forces with state-level agencies in New York and Pennsylvania to examine the threat posed by criminal elements emanating from within the former Soviet Union. This unprecedented cooperative effort, launched in 1992, was designed to build upon investigative work already undertaken by agencies of the federal government — but with a narrower focus. The federal agencies, including the Federal Bureau of Investigation, Department of State and Department of the Treasury, had begun to probe deeply into the emerging Russian crime problem from a transnational perspective. However, little in the way of organized information-gathering and fact-finding had been conducted to assist the public and law enforcement in evaluating this threat from a local and regional standpoint. Thus, the Tri-State Joint Soviet-Emigre Organized Crime Project was established.

The Project's primary goals were to determine the extent to which Russian-emigre crime here is organized, to ascertain whether any type of structure exists within the regional Russian-emigre community, to identify the methods and techniques employed by Russian emigres in pursuit of criminal activities, and to define any relationships maintained with other criminal groups operating within the New Jersey/New York/Pennsylvania region.

In addition to the Commission, Project participants included the New York State Commission of Investigation, the New York Organized Crime Task Force and the former Pennsylvania Crime

Commission.¹ Together, these agencies assigned a total of six to eight investigators, supported by attorneys and analysts, to the Project staff. An officer on loan from the Belarus Ministry of Internal Affairs assisted in the recruitment of informants and in the development of intelligence information, and served as liaison with law enforcement agencies in the former Soviet Union. The Project was further augmented by the work of a research team from Rutgers University's School of Criminal Justice. A comprehensive report of the findings was issued in June.

In sum, the Project found that gangsters with roots in the former Soviet Republics have established a strong and abiding presence in the tri-state region, engaging in a wide array of crimes that range from sophisticated financial frauds to narcotics trafficking to murder. Evidence developed by Project staff also showed that members of disparate Russian-emigre crime groups operating here have the potential to develop into one of the most formidable organized crime challenges since the advent of *La Cosa Nostra*.

The report catalogues the history and growth of Russian-emigre crime networks, from their core base in the Brighton Beach section of Brooklyn to their current reach well beyond the New York metropolitan area into the counties of central New Jersey and the suburbs of Philadelphia. One of the most troubling aspects is evidence of links between individuals here and criminal elements in the former Soviet Union, a phenomenon that lends a disturbing and complex international dimension to this emerging domestic law enforcement problem.

¹The Project continued beyond an initial two-year term absent the Pennsylvania Crime Commission, which was abolished as an independent agency in June 1994.

The range of criminal and illicit activities linked to these groups is impressive. The Project report detailed Russian-emigre involvement in a variety of highly sophisticated frauds and confidence schemes, counterfeiting and securities fraud, narcotics trafficking and an assortment of vice crimes. The presence of world financial markets in New York and Philadelphia, in combination with the proliferation of casino gambling in Atlantic City, have made this region particularly vulnerable to a broad mix of serious financial crimes, including money laundering.

Project investigators found that Russian-emigre criminals are adept in the use of violence as well. In addition to evidence tying these groups to crimes of assault and extortion, information was gathered regarding more than 70 murders or attempted murders involving Russian emigres committed regionally since 1981. In each instance, the evidence suggests a link to ongoing criminal activity, and many of the homicides appear to have been well-planned with the use of professional assassins.

The report pointed out that what sets Russian-emigre criminals apart from traditional organized crime at this stage is their lack of a readily identifiable structure and hierarchy of the sort that characterizes *La Cosa Nostra* or the South American drug cartels. The Project found, however, that the newcomers clearly are headed in that direction. Alliances between Russians and their LCN counterparts, for example, already have been engineered, as evidenced by a number of recent motor-fuel tax fraud investigations in this region. Moreover, Russian-emigre crime groups typically boast a level of intelligence, sophistication and business acumen rarely seen among elements of traditional organized crime. Having “trained” under the black market and shadow economy of the former Soviet Union, these criminals are adept at identifying weaknesses in legal, business, financial and

governmental systems — and capitalizing on those weaknesses for their financial benefit.

History has shown that loosely-knit criminal networks often evolve into more harmful types of organized crime. With that frame of reference, the Project report concluded that the evolution of Russian-emigre crime will be governed by the social context in which these criminal groups are operating. Consumer demand for illicit goods and services, the ability of these groups to expand their base, the amount of attention devoted to them by investigative and prosecutorial authorities, and competition from other criminal elements will each influence the evolution here of Russian-emigre crime. Federal law enforcement agencies must assume primary responsibility for countering the international aspect of organized crime. But it rests with state and local agencies to ensure that sophisticated and permanent criminal networks do not develop within their jurisdictions. Together, these efforts can prevent the “Russian Mafia” from becoming the 21st Century's *La Cosa Nostra*.

***INSURANCE INTERESTS AND LICENSURE OF
FORMER INSURANCE COMMISSIONER ANDREW J. KARPINSKI***

Andrew J. Karpinski submitted his resignation as New Jersey State Insurance Commissioner on September 13, 1995, the same day the Attorney General, through the Division of Criminal Justice, issued a report of an investigation into his divestiture of a private insurance agency and the altering of Department of Insurance records pertaining to his individual license. That investigation focused on potential criminal misconduct and did not purport to examine ethics violations or the system of ethics oversight and enforcement.

Urged to examine the matter, the Commission determined that apparent failures of ethics protections justified a separate and distinct probe. The goal was to determine the extent of any ethics deficiencies arising from the Karpinski matter and to discern any systemic changes that might be necessary or desirable. In October, the Commission issued a public report of its investigation.

The Key Findings:

* Karpinski's repeated personal failure over many months to comply with mandated ethics requirements was facilitated by an oversight and enforcement process so weakened by flaws as to become virtually meaningless. In essence, the system failed to prevent the top official of an important regulatory agency from deciding unilaterally that specific laws, regulations and department policies did not apply to him.

* Until the SCI began its investigation, officials responsible for ethics oversight at various levels collectively failed to recognize the prohibitive impact of a controlling insurance statute which forbids the Commissioner of Insurance from holding any interest in a licensee of the Department from the beginning of his tenure. Responsible officials also failed at various junctures to ask basic and appropriate questions concerning apparent ethics violations and conflicts of interest. No one, for example, discovered or questioned the improper use of Karpinski's individual insurance license by one of his agencies during the period of his public service.

* As the Executive Branch's primary ethics enforcement mechanism, the Executive Commission on Ethical Standards is responsible for overseeing conflict of interest laws, ensuring compliance with departmental codes of ethics and enforcing financial disclosure requirements. In the Karpinski matter, however, the ECES did not do its job. The ECES failed repeatedly to make Karpinski adhere to a variety of ethics obligations, yet readily granted him months-long compliance extensions without a full appreciation of his actions. Even when it should have been evident that early decisions concerning Karpinski's ownership of insurance agencies needed to be made, the ECES did not focus on his actions relative to the divestiture of his insurance business until more than three and a half months after he took office.

* Interviews with Department of Insurance (DOI) personnel and a thorough examination of internal procedures revealed a double standard in which ethics requirements applicable to rank-and-file employees were overlooked for the Commissioner by his subordinates. As a result, Karpinski, whose conduct as the head of the Department was more likely than that of any other to influence the

public interest, became the one DOI employee most likely to slip through the cracks of the existing ethics enforcement system. The DOI Code of Ethics was routinely ignored at the Commissioner's level throughout Karpinski's term.

* A thorough review of Karpinski's financial disclosure statements revealed that he provided incomplete and inaccurate information concerning his income and liabilities and his and his wife's positions. A lack of clarity in the current requirements for financial disclosure by Executive Branch officials contributed to these disclosure lapses. Karpinski's failure to disclose important information deprived the public and ethics enforcement officials of the opportunity to realize the extent to which his decisions as Insurance Commissioner might have impacted on his private interests. Karpinski was among those Executive Branch officials whose 1994 financial disclosures were delayed when he took advantage of a blanket extension of filing deadlines, issued by the Attorney General, which altered the terms of Governor Whitman's Executive Order No. 2

The Commission drew from this investigation a series of recommendations for systemic reforms, the primary components of which are summarized as follows:

*** Overhaul Executive Commission on Ethical Standards**

The ECES should be restructured along the lines of the Joint Legislative Committee on Ethical Standards (JLCES), which has operated successfully under a reconstituted format since 1991. The ECES should include public members who are not selected from among full or part-time state officers or employees. A majority of the ECES should be members of the general public. The Chair

should be selected from among the public members.

The ECES should be bipartisan, like the JLCES, so that its decisions are nonpartisan in concern and action. Members' terms should be staggered in order to avoid disruptions in the continuity of its work at the beginning of each new administration, and to provide expertise to this important function.

The investigative and clerical staff of the ECES should be increased, especially if it is to perform additional functions, such as enforcing the provisions of executive orders and issuing an annual report to the Governor and Legislature.

*** Codify Executive Order Requirements and Revise ECES Jurisdiction**

All provisions of Executive Order No. 2 deemed necessary to ensure or encourage ethical behavior by Executive Branch officials, including requirements for financial disclosure, should be enacted into law to provide for consistency following a change of administrations. After an election but before taking office and being in a position to issue an ethics executive order, a governor spends a good deal of time searching for people to staff the new administration. One of the important advantages of codifying ethics mandates would be to provide a clear understanding of ethical requirements to those considering during the gubernatorial transition whether to take a public position. Also, the only sanction for non-compliance expressed in Executive Order No. 2 is the harshest possible result: “removal from employment or office.”

Codification would permit an express range of less severe consequences, such as financial penalties and suspension.

The law should also be amended to give the ECES authority to initiate and hear complaints regarding violations of any executive order over which the Governor has granted the ECES jurisdiction. Additionally, sanctions available under N.J.S.A 52:13D-21(i) should apply to violations of such executive orders.

The ECES should also be given authority to render advisory opinions as to whether certain conduct would violate such executive orders. This would encourage more clarity and uniformity in ethics compliance and diminish self-serving interpretations that contradict the public interest.

*** Make Executive Branch Sanctions Consistent With Legislative Branch Sanctions**

Current monetary penalties for Executive Branch officials who violate the Conflicts of Interest Law, which range from \$100 to \$500, were established more than a quarter-century ago and are outdated. The penalty amounts should be increased at least to match those now applied for violations by Legislative Branch officials, which range from \$500 to a maximum of \$1,000.

*** Clarify License Disclosure Obligation**

Executive Order No. 2 and the financial disclosure statement (FDS) forms derived from it should be amended to clarify that all public servants who are required to complete an FDS must reveal all licenses they hold, regardless of the extent of their activity, or lack of activity, in the applicable field. Additionally, the Conflicts of Interest Law should be amended to add the requirement that covered individuals disclose all their licenses to the ECES (and the JLCES in the case of individuals in the Legislative Branch.) Since licenses enable people to engage in regulated professions and occupations, awareness of a license may be a necessary first step to determine whether an official is participating in a specific profession or occupation.

*** Disclosure of Actual Income Figures on FDSs**

Public officials should disclose on their FDSs actual amounts of income from each source of income, rather than simply indicating a broad range within which an actual figure falls.

*** Sanctions For Former Officials**

Under the Conflicts of Interest Law, an official who has departed state service may be barred from public office or employment for up to five years, provided that he or she had demonstrated “willful and continuous disregard” of a requirement of the statute or an ethics code. Incongruously, although an official guilty of a violation that is not willful and continuous may be suspended for up to one year, a former official guilty under the same circumstances may not be barred from office for any period. Therefore, the statute should be amended to permit the ECES (or the JLCES in the case of the Legislative Branch) to bar an offending former official from public service for at least some period, regardless of whether the offense was willful and continuous.

*** Employment of Official's Spouse in Industry Regulated**

Continuing to own insurance agencies as Insurance Commissioner was no less a conflict of interest for Karpinski than was his wife becoming president of one of the agencies at a final compensation determined by bonuses tied to the agency's business volume. In both situations, Karpinski's decisions as Insurance Commissioner could have influenced his household income. The Legislature should consider whether employment restrictions on spouses, similar to those required in the casino industry, should be made applicable to highly-regulated industries, such as insurance.

*** Expand Criminal Offense of Tampering With Public Record or Information**

A violation of the current law against tampering with public records or information is merely a disorderly persons offense “unless the actor's purpose is to defraud or injure anyone, in which case the offense is a crime of the third degree.” The grade of the offense should be increased to the third degree when the actor is a public official or employee. In addition, the offense should not be restricted to those who actually create, tamper with or use a false record, but it should include public officials and employees who knowingly permit or direct another public official or employee to commit a forbidden act.

. . .

Legislation has been introduced in the state Senate that would accomplish key elements of the Commission's recommendations. In response to the Commission's findings, Governor Whitman announced plans to transform the Executive Commission on Ethical Standards into a bipartisan body and to expand its membership to include public members, among other steps. The Governor also called for changes to the financial disclosure statements required of all senior Executive Branch employees to simplify the forms but at the same time provide greater specificity in the value of holdings.

“The State Commission of Investigation has correctly pointed to some deficiencies in the system which must be addressed,” Governor Whitman stated in an announcement on October 2. “I am doing that today by calling for legislative changes where appropriate and by beginning to

implement those changes that can be accomplished by administrative action without further delay.”