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ORGANIZED CRIME NARCOTICS ENFORCEMENT SYMPOSIUM

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NARCOTICS ENFORCEMENT:

WHAT ARE THE GOALS AND DO THEY CONFLICT?

By

**Frederick T. Martens
Executive Director
Pennsylvania Crime Commission**

**DATA CENTER AND
CLEARINGHOUSE
FOR DRUGS AND CRIME**

Thank you, Commissioner Manning. Your remarks were right on target.

Let me now try to loosen up the audience for what I hope will be an exciting three days. One of the things that we are hoping to accomplish as a result of this symposium is group interaction and group dynamics; that is, we are looking for you to partake in this symposium. It is a rather large group, despite our intent to maintain it at about 30 participants. Oftentimes, we evaluate the effectiveness of a program or symposium by the size of the group, as opposed to the quality of the instruction. In this case, we have been able to blend quality with quantity--a rare combination indeed. Unfortunately, that is often not the case in drug enforcement. What we seem to concern ourselves with is not necessarily what is effective but rather what looks good.

That leads me to the first issue that I would like us to address: What is the goal; what is it that we are attempting to accomplish in drug enforcement? Are we trying to eliminate drugs from our society? Are we trying to diminish the demand for drugs in our society? Or are there a number of other goals that we have not considered?

Many Possible Drug Enforcement Goals

There are a whole host of goals that can be set forth with respect to drug enforcement. But maybe the more important question, at least initially, is why is it that we even need to establish law enforcement goals?

For example, one goal of our enforcement may be to identify and interdict major drug networks. How would we basically do that?

RESPONDENT: Informants

Informant development may be one means of "working up the ladder". Essentially, focusing on the organization is one goal.

Another goal may be to reduce the use of drugs. But what can law enforcement do in this area? What about the whole issue of reducing use? Does law enforcement have a role in reducing the demand for drugs? Is that a legitimate goal of law enforcement, to reduce demand? Or might some other institution be more effective in reducing use? Can law enforcement have an impact on demand?

Let me suggest that there is a role for law enforcement in reducing demand through what we call opportunity blocking--reducing the availability of drugs on the street. I'm sure Mark Kleiman will discuss this later, but we can and we do have a role. Not only can educational institutions reduce demand through opportunity blocking--that is making drugs more difficult to acquire for potential and current users--but law

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enforcement can affect demand also. Although this may sound somewhat nontraditional, focusing the criminal justice sanctions on users of drugs as a means of reducing demand is a viable criminal justice goal.

What else? What are some of the other goals within law enforcement with respect to narcotics control?

RESPONDENT: Maintaining and improving the quality of life by containing drug trafficking.

Maintaining and improving the quality of life is, of course, another goal. That sounds somewhat esoteric. Improve the quality of life within the community. And what does that mean?

That could be translated into, perhaps, reducing the public visibility of drug trafficking within that community, displacing drug traffickers to other areas wherein their impact may not be so deleterious to the social fabric of that community. Displacing drug traffickers and removing them from public visibility may improve the quality of life for people. It may have very little effect on the use or abuse or availability of drugs, however. In other words, use and abuse still may stay constant. The problem just may be in areas in which its social impact may not be quite as visible. So that's a completely different type of goal than the first two that we have spoken about.

That brings up, perhaps, another goal that often we lose sight of. Some people would argue, "Look, the role of law enforcement is relatively simple. It is to arrest drug traffickers. It's to arrest people who traffic in drugs because that is what we get paid to do." The arrest of drug traffickers serves as a deterrent effect, I hope, but if not, at least a punishment effect. This is sufficient justification for the allocation of finite resources with respect to drug enforcement. They committed a crime; go out, arrest them. That's the job you get paid to do. Should that become the number one priority?

The implications of this goal are something we'll talk about later when we will describe how these goals we're setting out, in a sense, conflict with one another.

The issue is, whom do we want to arrest and why? And what impact will this have on the problem? The issue isn't so much whether we can or cannot make an arrest; because the fact of the matter is, we can make hundreds upon thousands of drug arrests. Who is it we want to arrest and for what purpose? That is the real question.

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Selective Narcotics Enforcement

What we're talking about is selective narcotics enforcement focused on a specific goal. This suggests that we should arrest those people who will have the most impact upon (1) the availability of drugs or (2) the organization of drug trafficking in a particular area.

What we're saying is that there's a distinct difference between arresting various kinds of people involved in the drug market. Arrests differ in their impact. Certain arrests may be, in a sense, more important than others.

If we can come to that realization--that certain people deserve to be arrested more than others--and move away from a notion that is fairly well embedded in the law enforcement community--that our job is to arrest all those people who traffic in drugs--we can then conclude that our job is to prioritize our enforcement resources to focus on the specific problem as defined through intelligence.

It's important, then, to define how we perceive the problem. Who is it that we're going to focus on in terms of a narcotics enforcement effort so that we have an impact as determined by our goal?

Let me suggest to you that narcotics enforcement is ill-equipped to do that and that we really have not made the investment in intelligence systems to address this issue of "who". Most narcotics enforcement tends to be opportunistic and ad hoc. It is relatively easy to go out and make drug buys. It is relatively easy to make drug seizures today. They're a dime a dozen.

We can easily increase our statistics or decrease our statistics. We can do whatever we want with respect to narcotics statistics. It's relatively easy to make drug arrests.

Why do we need to identify the people we should be arresting? We need to do this so we can prioritize. To identify targets, we have to make that investment in intelligence systems--something that has been seriously lacking within narcotics enforcement.

When I was in the North Jersey narcotics region, one of the many things we demonstrated was that we could take \$100,000, go to any corner in Northern New Jersey, flash the money, and get three kilos of cocaine delivered to that corner within six to seven hours. That's how easy it was to have three kilos of cocaine delivered. We make an arrest or arrests; division headquarters is happy; the brass got their pictures in the paper; and everybody walks away for the week very happy that the drug enforcement unit is doing its job.

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I am not exaggerating when I tell you that was how easy it was to get three kilos in North Jersey. I suspect it's not quite that easy here in Pennsylvania, but I would venture to say that, shortly, it will become that easy. That's how easy it is to make drug arrests.

My argument against this strategy was simply, "So what!" What does all this mean with respect to what we are trying to accomplish? What does it mean when we can go out there and make these major kilo seizures, other than that everybody is happy that enforcement is doing its job? Let me suggest to you, that's important, too. Symbolism in narcotics enforcement is important as well, and I don't mean to deride symbolism. But what impact were we having on the narcotics problem in North Jersey? My belief is that we had very little impact on the narcotics problem in North Jersey. What we more than likely were doing was to organize the narcotics market in North Jersey by engaging in what I considered to be a very ad hoc, opportunistic drug enforcement strategy.

One could say, "Well, Martens, you were there, why didn't you change it?" I would argue that there was no real need to change it. You know why? Everybody was happy in the unit and at headquarters. So long as we went out and did this a couple times a week, there were no complaints. We looked terrific. We seized better than 60 kilos of cocaine in 18 months and everybody was happy. There was no organizational demand placed on us to go out and do it differently; as a result, we continued that same policy.

In a sense, I suspect it is a criticism of management, of which I was a part. We didn't have an intelligence system that told us where to go. We didn't develop an intelligence component that said, "Look, it would be better to allocate your resources here." That did not exist. However, I would say that the beginnings of that approach, as I know it, are under way in New Jersey at this time. Through the Attorney General's Office, their narcotics task force is attempting to bring a more focused view of the narcotics problem.

What, in fact, did we accomplish? Here we get to the variety of enforcement goals that I was talking about and how they may conflict with one another. This is really the crux of what I want to try to bring across to you within the next half hour, and then invite questions and comments.

Independents and Organizations

The title of this symposium is "Organized Crime Narcotics Enforcement." Why didn't we just call it a narcotics enforcement symposium? Why didn't we consciously take out the term "organized" and say this is going to be just a narcotics enforcement symposium? Because

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we are going to focus on the organization of narcotics markets and how law enforcement policies and strategies either encourage or discourage the organization of those markets. What do we mean by that?

For this, we have to understand a little something about what we mean when we say "organized crime". We are not talking merely about La Cosa Nostra or the Mafia and its role in narcotics enforcement. We're talking about how the various factors that occur in an illegal marketplace come together to bring about greater organization of a criminal service or a criminal product.

When we look at the issue of organized crime narcotics markets, we have to look at how that market is organized or how we think it is organized. This is where we may get considerable disagreement.

Everybody is going to say, or I suspect will tell me, "Look, narcotics markets are organized." There's no ifs, ands, or buts about it. You've got an exporter, an importer, mid-level people, et cetera. They give the drugs to other people, and it goes to the street. That's organization. Hence, that's organized crime. I say that's a very narrow view of what we're talking about here.

We are not talking about just the exporter, importer, mid-level people, and all those people who then distribute the drugs. That's not essentially what we're describing here. We're describing, or attempting to describe, over the next three days, a process that occurs and how police become part of that process.

Let me use some visuals so that you leave with a picture as opposed to my words. I apologize for the inartistic talent that these charts may represent.

In Chart 1, we see a very competitive market where there are a lot of independent entrepreneurs out there selling drugs. They don't really care about monopoly control, territory, corruption of the police, or elimination of competitors. They're there because opportunities have presented themselves, and they have taken advantage of these opportunities.

How many people would agree that that is generally how you see the market? A host of independent entrepreneurs who are operating out there--able to buy large quantities of drugs, selling those drugs independently of corrupting police, seeking monopoly control, and not necessarily worried about developing a corner on the market.

On the other hand, you have organizations that are seeking to monopolize, to push the entrepreneur out. Pictorially, it may look like this (see Chart 2). This suggests that it's an organized process already, that the market is already organized. It may be, of course, a hybrid between these two situations, eh? (See Chart 3.)

There are a number of independent entrepreneurs who are plying their trade as opportunities arise. They are out there. No doubt about it. There are also criminal organizations out there that are seeking to acquire a monopoly over a particular drug--and let's use cocaine in this particular instance--by corrupting police, by killing rivals, and by competing with others through price and purity.

You have both independent entrepreneurs and criminal organizations. Some entrepreneurs have folded because of law enforcement efforts. This has allowed organizations to move in and take over from these independent entrepreneurs through corruption of police, through killings, and through a better product, perhaps, than the independent entrepreneur can provide.

You may ask, "What's the big deal?" So now we have a third picture. So we're walking away with a bunch of pictures in our heads! What are the implications of all of this? Where does this bring us, Martens? What are you trying to tell us?

I'm trying to tell you how you prioritize your resources--on whom you focus becomes very important in terms of whether the market ultimately looks like this (Chart 1) or like this (Chart 2). Whom you arrest will ultimately determine whether that market is organized or disorganized.

Enforcement's Impact on the Organization of the Narcotics Market

For instance, if the Pittsburgh Police Department or the Pennsylvania State Police focuses on the independent entrepreneurs who are operating out there, they, in fact, provide a service to the criminal organizations that are seeking to develop a monopoly in particular areas. They are, in fact, the enforcement arm for organized criminal networks. The police need not be corrupt. They just need to have dedicated "narcs" who are conditioned to think in terms of arrests and seizures. They call the "narcs" and say, "Hey, I can set up a three-kilo deal at the corner of Tenth and Broad in Union City, New Jersey. Have \$100,000 and I'll set 'em up." And you know what? We're going to run out because our bosses are going to love us. We're all going to get our pictures in the paper with these three kilos and a hundred grand laid out on a table and we're going to be given credit for waging a "war against narcotics traffickers".

We're not corrupt. We're just doing the job that we were told to do. It has nothing to do with corruption. Unconsciously, we are basically servicing those criminal organizations that are seeking to acquire a monopoly over a particular product, service, or area, aren't we? And everybody's happy. We've done our job in narcotics enforcement. We've taken drugs off the street and we have arrested those people who are perpetrating this social ill on our society. We become heroes. In fact, we get medals, ribbons, certificates, agent of

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the year--whatever you want to call it. We get all these things. We become generals, in a sense, in the war against drugs. But, in fact, we have probably contributed to the organization of this market in a particular area.

What I'm suggesting is that when we enforce the law against independent entrepreneurs for running around making large amounts of money out there, we reduce competition. There's no doubt about it. There's going to be less competition. More than likely, in the long term, there will be higher prices because criminal monopolies seek to increase prices as opposed to decrease prices. Short term, you may see a lower price in order to get control. Moreover, there'll be less indiscriminate violence. In other words, when violence is used in a highly monopolized market, it's not indiscriminate. It tends to be for business purposes. It is selectively used; so the so-called "drug wars" that we're witnessing today will more than likely decline. We won't see as many people getting killed. There'll be people getting killed but not indiscriminately as we're seeing it today.

And, more than likely, what will replace that desire to kill will be systemic corruption of police. More than likely, that criminal organization will be able to corrupt the police because of the power that it has acquired.

When you have that particular market, the implications for law enforcement are basically less competition, higher price, less indiscriminate violence, but more systemic corruption. That's one policy option that we have when we talk about focusing on independents.

But wait a minute. We don't really want that. Maybe we want something else to occur out there. Why not focus our resources against criminal organizations and not worry about all the independents who are running around? Don't become part of the game that organized crime networks are, in a sense, playing with us. So we'll focus on those criminal organizations out there and, we hope eliminate--or at least minimize--the power that they are able to exert on independent criminal entrepreneurs who traffic in cocaine, marijuana, or whatever.

So our enforcement--our focus of our resources--is directed against criminal organizations. What does that mean? What are the implications for law enforcement if we go that route? We will probably increase competition if we are successful. And if we have more competition, we're likely to have more violence associated with that competition. Violence is going to increase. Price should go down and the drug is cheaper to purchase. And there will be, more than likely, less systemic corruption but more episodic or opportunistic corruption.

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So the way you perceive the problem affects how you allocate your resources, and the results are diametrically opposed to one another. Almost two diametrically opposed conditions occur.

I do not particularly believe that law enforcement can do nothing about drugs. It can do a hell of a lot with respect to how markets are organized. Law enforcement can do a hell of a lot, and it is unfortunate that we have not invested in the types of intelligence systems that allow us to make these discriminating judgments.

We are light years behind in narcotics control; and if we don't begin to wake up, my fear is that you will, within the next decade or less, see more and more criminal monopolies popping up. Let me suggest to you that when it gets to this stage, the ability of the police to have an impact on the problem diminishes significantly because the power--the power to control--is invested in a small number of people who are able, through the large amount of resources that they have, to manipulate the criminal justice process, the political process, the economic process.

And what you end up with is basically a totalitarian system where they call the shots, such as in Colombia, South America. It's happened. By running down to that corner in Union City and arresting those guys left and right with the \$100,000 "flash money", we have, in fact, helped that organized criminal conspiracy to control a criminal market. Not corruptly, perhaps, but nonetheless, stupidly. This is essentially what the next three days is all about.

Unless we bring a more enlightened approach to this issue of drug enforcement, law enforcement will be dictated to by political winds. It is our obligation, I believe, at least to bring a more reasoned dialogue to this issue of drug enforcement--to what the police can do and to what the police cannot do and should not be expected to do. I think we can carve out a significant role. Forget walking into schools, because I personally don't know that police are the best equipped to do that, despite all the rhetoric.

Why don't we get involved in what we should be involved in? And that is, how the markets will ultimately be organized in your particular area. That's where we should be involved. That's the real issue here, which law enforcement must begin to take a look at. And, I hope, after the next three days, you will leave here with the type of analytical skill to begin to address those issues.

Thank you.

COMPETITIVE

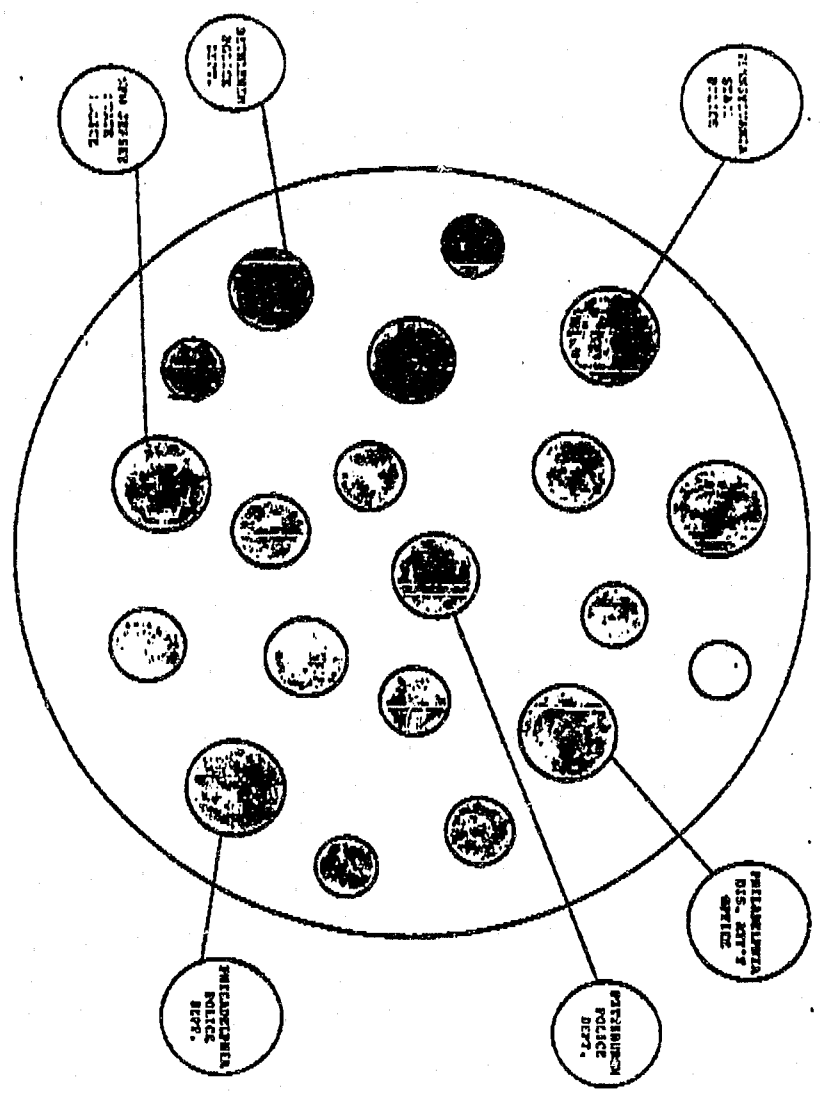
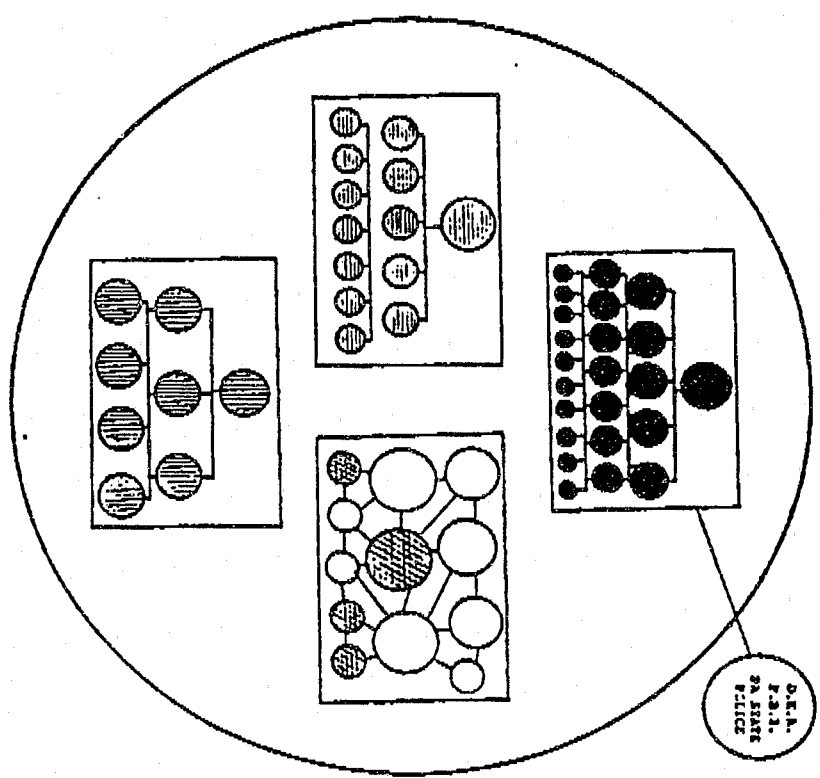
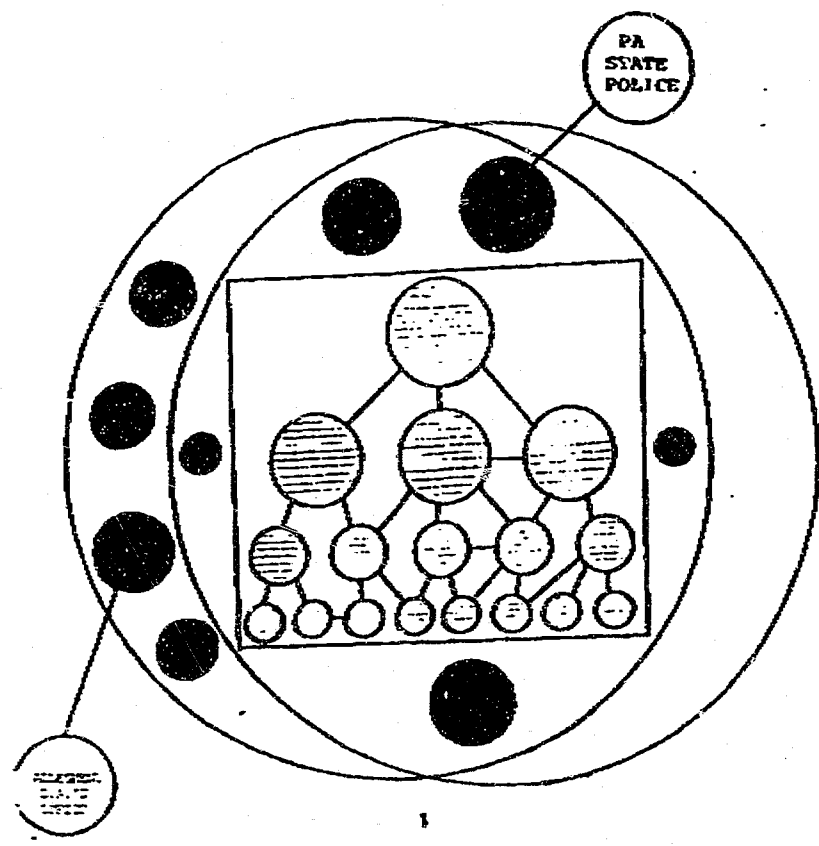


CHART 1

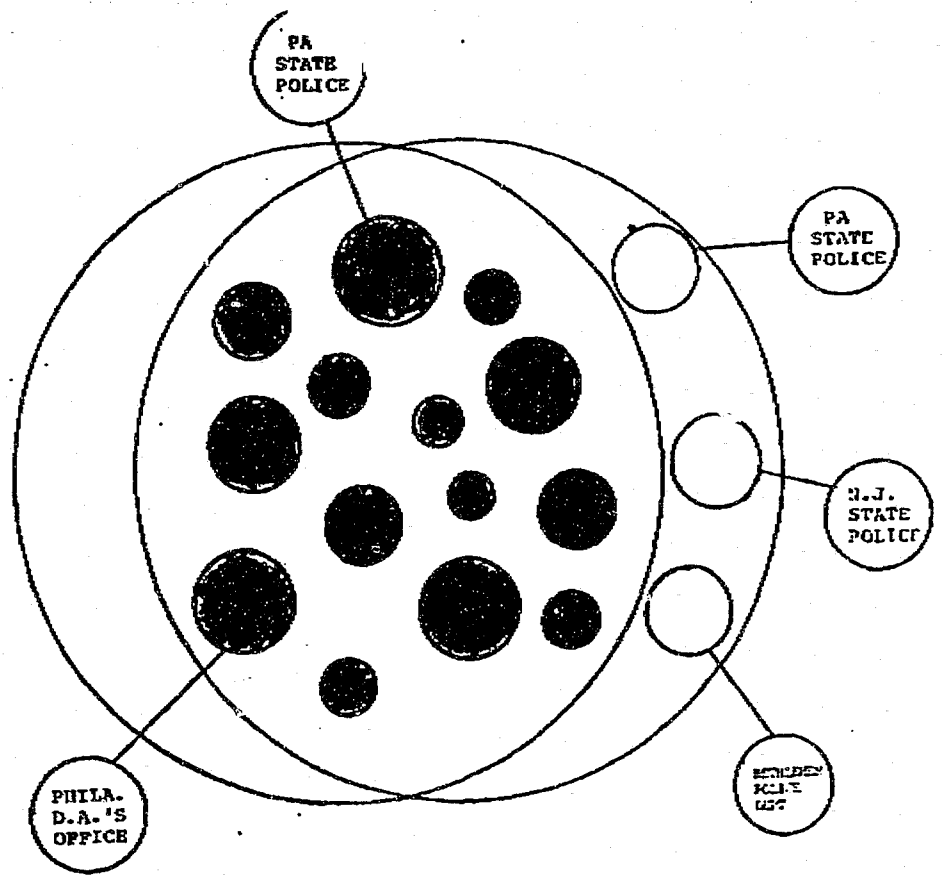
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ENFORCEMENT AGAINST INDEPENDENT ENTREPRENEURS

- Less Competition
- Higher Price
- Less Indiscriminate Violence
- Systemic Corruption



ENFORCEMENT AGAINST ORGANIZED CRIME

- More Competition
- Lower Price
- More Discriminate and Indiscriminate Violence
- Less Systemic Corruption

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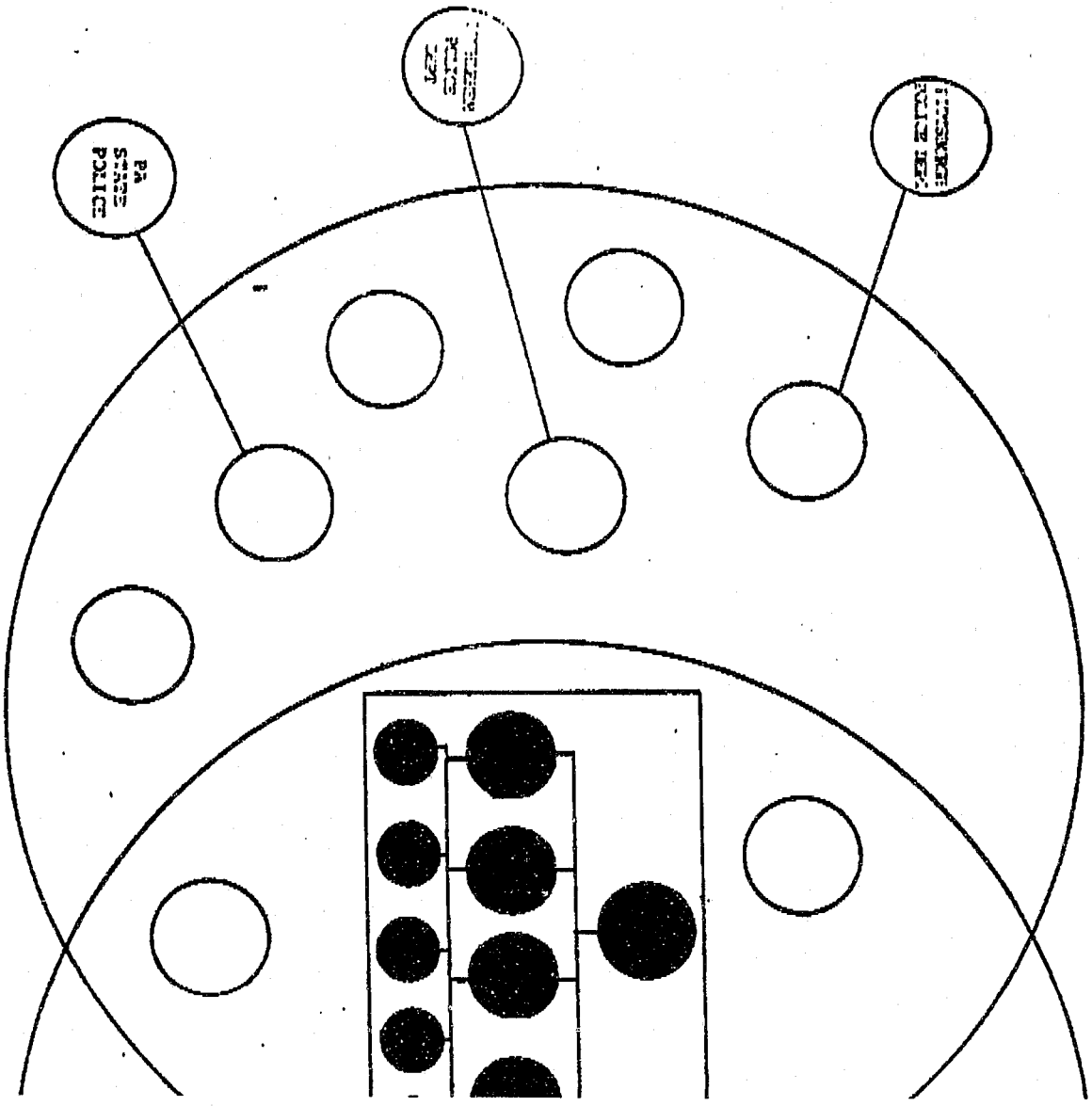


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