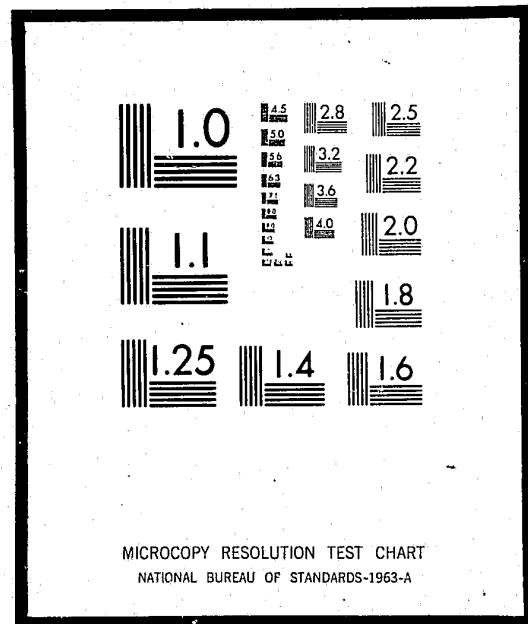


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New York -

Suggestions for a Programmatic Budget Submission  
Request/Programmatic Appropriation Format  
in the State Purposes Bill for the Department of  
Correctional Services

ASSEMBLY WAYS AND MEANS COMMITTEE

Burton G. Hecht, Chairman

John L. Hardy  
Secretary

David H. Gaskell  
Director of Budget Studies

Laurence P. Farbstein  
Legislative Budget Analyst

January 14, 1975

PURPOSE:

The purpose of this paper is to clearly present the need for program budgeting for the Department of Correctional Services.

BACKGROUND:

On October 4, 1971, the Assembly Ways and Means Committee issued a staff paper entitled, "Staff Recommendations for changes in the Format and Content of the State Budget and Appropriation Bills." The staff paper was written because the existing budget process did not fulfill the needs of the Legislature in meeting its constitutional obligation in enacting a budget for the State.

Among other things, the staff paper recommended that the State Purposes Bill should contain lines which reflect the program allocations outlined in the Executive Budget document, especially with respect to the larger agencies such as the State University of New York and the Department of Correctional Services. This recommendation was based on the difficulty in comparing and relating the Governor's Executive Budget with the actual budget bills. Whereas the Executive Budget contained some programmatic information, the budget bill contained objects of expenditure by institution. Changes made by the Legislature in the budget bills were difficult, if not impossible, to translate into programmatic changes and were open to uncertainty on legislative program intent.

The State University of New York was chosen as the "demonstration agency" to ascertain whether a sufficiently detailed program budget could be reflected in the State Purposes Budget Bill. The success of this undertaking required that the following two elements become operational:

1. A revision of the agency's budget submission request to the Governor to reflect appropriate program breakdowns with necessary supportive data.
2. A revision of the Governor's Executive Budget Document to reflect the same breakdowns and supportive data as the agency budget submission request.

In the subsequent fiscal years, a concerted effort was made by the State University, the Budget Division, and the Fiscal Committees of the Legislature to define and redefine the data requirements necessary to realize these elements. The benefits of this effort are an improved ability to determine State University appropriations needs; improved budgetary and program review of University operations and a reasonable degree of budgetary accountability after an appropriation has been made; and legislative appropriation of funds on the basis of general formulae that reflect the resource requirements and cost relationships necessary to produce the quantity and quality of output indicated in the narrative and policy statements of the University's Master Plan, the University's budget request, and the Executive Budget Document.

Thus, in fiscal year 1975-76 the State University of New York is using budget submission sheets that incorporate the necessary program data described above. In addition, both the Executive Budget Document and the State Purposes Bill will reflect this programmatic breakdown on a campus-by-campus basis.

PROPOSAL:

In light of the precedent set by the apparent success of the State University demonstration project, it seems logical to move forward and extend the same concepts to the Department of Correctional Services. At this point in time the Department of Correctional Services purports to have a program budget. In fact, the contrary is true. The Department's budget submission request contains data and narrative for the Correctional facilities primarily by function and by objects of expenditure (i.e., the traditional personal service/non-personal service breakdowns). Thus, any meaningful programmatic analysis on a facility-by-facility basis is difficult, if not impossible. The Executive Budget Document does make a cursory effort at explaining programmatic breakdowns but does not have the appropriate data back-up to do a really meaningful explanation. Most significantly, no effort is made to correlate programmatic information with particular institutions. Of course, the lack of the appropriate data means that the State Purposes Bill cannot contain a

realistic program breakdown and, indeed, there has been no attempt at a program breakdown (see Appendix II on 1974-75 Budget Bill example). The State Purposes Bill in Fiscal Year 1975-76 will, therefore unless modified, carry appropriations and objects of expenditure by correctional facility.

The necessary first steps toward revision of the Correctional Services' budget require the development of major cost indicators and resource requirements associated with the State's offender population. At a minimum, data should be developed by facility in the following areas:

1. Correctional Officer - Offender Ratio
2. Parole Officer - Offender Ratio
3. Correctional Counselor - Offender Ratio
4. Cost per Offender/Educational Programs
5. Cost per Offender/Vocational Programs
6. Facility Support Services (Administration and Plant Maintenance) as percentage of total facility appropriation

Data generation of this type would provide the basis for the division of a facility budget into at least three major program components: Supervision of Offenders, Rehabilitation of Offenders and Facility Support Services. Many of the questions on the funds requested for Correctional Services concern the amounts budgeted and/or allocated for these three program areas. Proponents and critics of New York State's Correctional System argue, respectively, that either too much money and emphasis is placed on an offender's supervision

(i.e., making sure he conforms to the facility's rules and does not try to escape), or that too much is placed on an offender's rehabilitation (i.e., seeking to resocialize and reintegrate the offender into society through educational efforts, vocational efforts, industrial efforts, counseling, etc.). The utilization of a meaningful program budget would put these proponents' and critics' assertions into their proper perspective by identifying both the percentage and proportion of the monies and efforts expended on behalf of the program areas.

Use of the seven indices and others, coupled with the three major program areas, would enable the Department to present their budget submission requests on forms that clearly illustrate appropriate programmatic breakdowns. From these sheets the Governor's Executive Budget document could be prepared using the same format as the State Purposes Bill.

In order to fully accomplish meaningful budgeting, the major programmatic areas need to be broken down into sub-programs. Appendix I provides one possible subprogram breakdown. For example, the rehabilitation of offenders program might have subprograms in educational training, vocational training, industrial training, medical training, correctional counseling, religious counseling and program support.

The Correctional Services budget requests in recent years have contained proposals for new programs, construction of new facilities, rehabilitation of existing facilities and new methods of "treating" offenders. However, there have not been any concurrent proposals for testing and measuring the validity of either the existing or the proposed new programs. A beneficial aspect of a meaningful programmatic breakdown would be the facilitation of efforts toward a significant correctional research and evaluation program. At the least, the programmatic breakdown can provide the fiscal framework for some type of cost-benefit analysis on each of the correctional programs. Ultimately, it could also be a major factor in determining, on some type of longitudinal basis, the programs employed by the Correctional Department which have a favorable impact on offenders and the types of offenders that benefit from these programs.

It must be emphasized at this point that the use of such detail in the budgetary process is not intended to restrict the flexibility required in the management of the correctional facilities. The present authority to interchange between programs and facilities would still be available to meet shifting offender population patterns. Rather, the purpose of meaningful program detail is to provide sufficient information to the

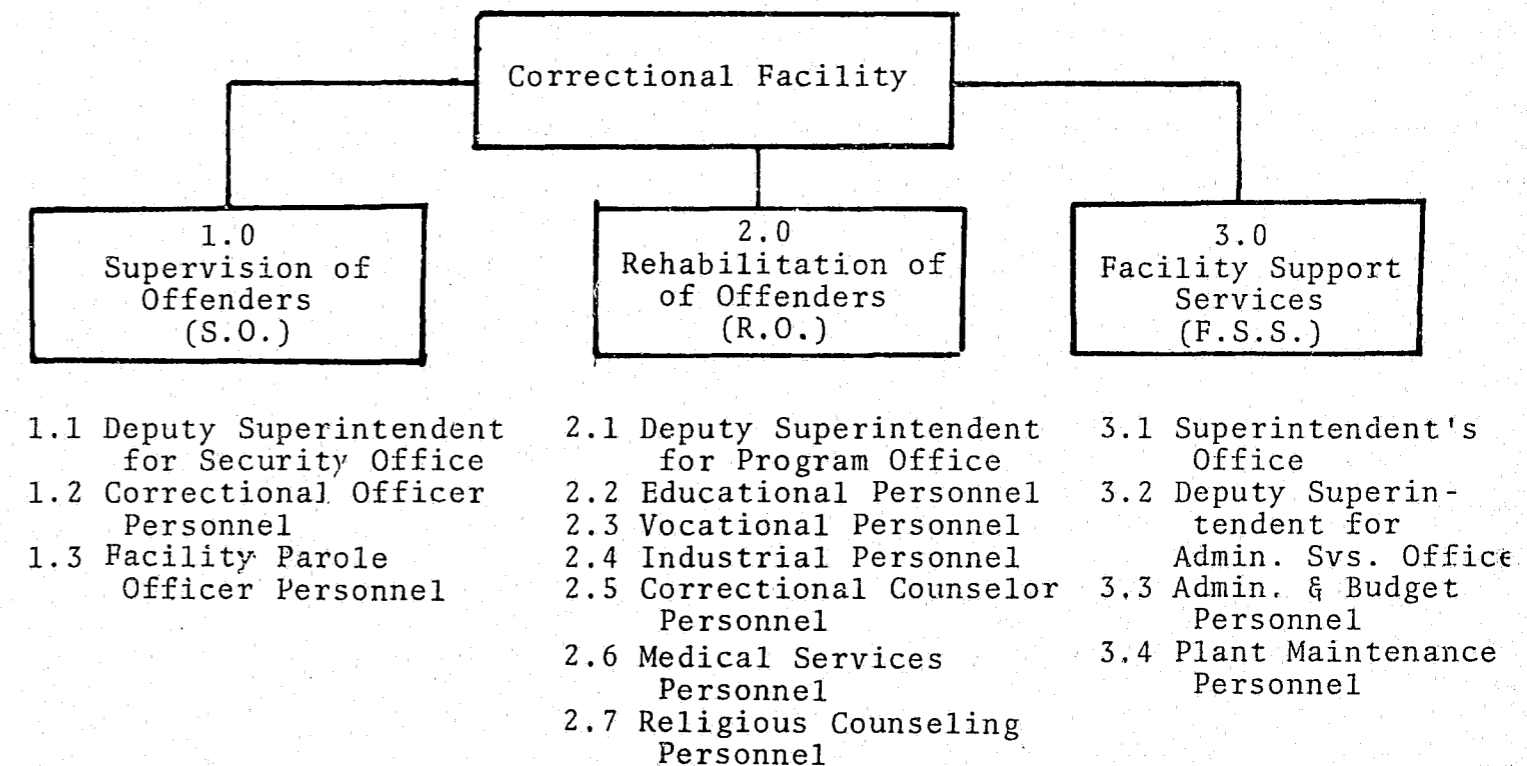
members of the Legislature in the Executive Budget and the State Purposes Bill, so that they are able to make more informed and improved judgments in their appropriation decisions. Finally, it would enable the expression of a more definitive statement of legislative intent.

The appendices which follow contain forms that can be viewed as initial suggestions for a revised method of presenting the appropriate budget submission requests (exclusive of narrative), and a suggested new budgetary format for the correctional facilities in the State Purposes Bill. It should be clearly understood that these forms are only suggestions and are only intended to provide a starting place for further dialogue and analysis, similar to the undertaking on the State University demonstration project, with the Budget Division, the Corrections Department and the Fiscal Committees.

It is further hoped that this process will encourage additional undertakings for revised budget formats and presentations for the Department of Mental Hygiene, the Department of Health, the Division for Youth, and the Drug Abuse Control Commission. All of these agencies have institutions that should have true programmatic appropriation formats in the State Purposes Bill.

APPENDIX I

Overview: Organization of the Suggested Program  
Classification Structure



APPENDIX II

Suggested New Appropriation Format in the State Purposes Bill  
for a Department of Correctional Services Facility

A. Present Format: (Using the Attica Facility as the example)

1. Rehabilitation and Supervision of Offenders Program

Attica.....\$9,787,100

Personal Service

Personal Service - Regular.....7,527,100  
Overtime Compensation..... 72,700  
Temporary Service..... 254,100  
Services, Non-employees..... 63,900  
Inconvenience Pay..... 55,400  
Holiday Pay..... 9,900  
Pre-shift Briefing Pay..... 92,200

Amount Available for Personal Service.....8,075,300

Non-Personal Service

Supplies & Materials.....1,148,300  
Travel..... 15,000  
Contractual Services..... 406,200  
Special Departmental Contractual Services..... 42,300  
Equipment..... 100,000

Amount Available for Non-Personal Service.....1,711,800

2. Correctional Industry Program

Attica.....2,600,700

Personal Service

Personal Service - Regular..... 281,300  
Overtime Compensation..... 3,400  
Temporary Service..... 500  
Inconvenience Pay..... 900

Amount Available for Personal Service..... 286,100

Non-Personal Service

Supplies & Materials.....1,599,100  
Travel..... 8,500  
Contractual Services..... 573,600  
Equipment..... 133,400

Amount Available for Non-Personal Service.....2,314,600

B. Suggested Format: (Using the Attica Facility as the example)

Attica.....10,000,000

Supervision of Offenders ..... 6,000,000  
Rehabilitation of Offenders<sup>1</sup>..... 3,000,000  
Facility Support Services..... 1,000,000

<sup>1</sup> Correctional Industry becomes incorporated into the facilities' budgets

APPENDIX III

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

RECONCILIATION OF ADJUSTED  
BASE YEAR APPROPRIATION

Facility: \_\_\_\_\_

	<u>Facility Total</u>	<u>S.O.</u>	<u>R.O.</u>	<u>F.S.S.</u>
1974-75 Adjusted Appropriation	\$ _____	\$ _____	\$ _____	\$ _____
TOTAL ADJUSTMENTS	_____	_____	_____	_____
I State Misc. Appropriations (e.g., salary)	_____	_____	_____	_____
II Permanent Interfacility Transfers Plus or Minus	_____	_____	_____	_____
1974-75 Legislative Appropriation (including Supplemental Budget)	\$ _____	\$ _____	\$ _____	\$ _____

APPENDIX IV

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

ALL FUNDS  
DISTRIBUTION BY MAJOR PURPOSE  
(Net Savings)

Facility: \_\_\_\_\_

	<u>TOTAL</u>	<u>S.O.</u>	<u>R.O.</u>	<u>F.S.S.</u>
<u>Prior Year - 1973-74</u>	\$ _____	\$ _____	\$ _____	\$ _____
State Purposes				
Other State Agencies				
U. S. Government				
All Other				
<u>Current Year - 1974-75</u>	\$ _____	\$ _____	\$ _____	\$ _____
State Purposes				
Other State Agencies				
U. S. Government				
All Other				
<u>Request Year - 1975-76</u>	\$ _____	\$ _____	\$ _____	\$ _____
State Purposes				
Other State Agencies				
U. S. Government				
All Other				



APPENDIX V

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

INMATE POPULATION (HEADCOUNT)

Facility: \_\_\_\_\_

<u>Facility Totals</u>	<u>Actual Average FY 1973-74</u>	<u>Actual Average FY 1974-75</u>	<u>Projected Average FY 1975-76</u>	<u>Change From FY 1974-75</u>
------------------------	--------------------------------------	--------------------------------------	---	-----------------------------------

APPENDIX VI

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

APPROPRIATION DISTRIBUTED BY MAJOR PURPOSE  
(Net of Savings)

Facility: \_\_\_\_\_

	<u>1973-74</u>	<u>1974-75</u>	<u>1975-76</u>	<u>1975-76 Increase</u>	<u>% Increase</u>
FACILITY TOTAL	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Supervision of Offenders					
Rehabilitation of Offenders					
Facility Support Services					



APPENDIX IX

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

SUMMARY PERSONAL SERVICE REGULAR

Facility: \_\_\_\_\_

	<u>S.O.</u>	<u>R.O.</u>	<u>F.S.S.</u>	<u>Total</u>
1974-75 Budget Allocations	\$ _____	\$ _____	\$ _____	\$ _____
Plus				
(1) Annualization of 7/1/74 Salary Raise	\$ _____	\$ _____	\$ _____	\$ _____
(2) Annualization of 1974-75 New Positions	\$ _____	\$ _____	\$ _____	\$ _____
(3) Fiscal Cost of 7/1/75 Salary Raise	\$ _____	\$ _____	\$ _____	\$ _____
(4) Other Ongoing (please list)	\$ _____	\$ _____	\$ _____	\$ _____
Total of Ongoing Cost	\$ _____	\$ _____	\$ _____	\$ _____
(5) New Positions Requested	\$ _____	\$ _____	\$ _____	\$ _____
(6) Other (Savings Reduction, etc.) (Please list)	\$ _____	\$ _____	\$ _____	\$ _____
1975-76 Request Total	\$ _____	\$ _____	\$ _____	\$ _____

APPENDIX X

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

PRICE LEVEL CHANGES

FACILITY: \_\_\_\_\_

	<u>Utilities</u>		<u>Postage</u>	<u>Travel</u>	<u>Telephone</u>	<u>Library Acquisitions</u>	<u>Rentals</u>	<u>All Others</u>	<u>Total Price Increase</u>
	<u>Fuel</u>	<u>Other</u>							
Facility Total	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
I Supervision of Offenders	_____	_____	_____	_____	_____	_____	_____	_____	_____
II Rehabilitation of Offender	_____	_____	_____	_____	_____	_____	_____	_____	_____
III Facility Support Service	_____	_____	_____	_____	_____	_____	_____	_____	_____

APPENDIX XI

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

ANNUAL STAFFING

Facility: \_\_\_\_\_

	1973-74 Budgeted	Filled as of March 31, 1974	Average Salary Filled Positions	1974-75 Budgeted	1975-76 Increase	Average Salary New Positions 1975-76	1975-76 Requested
<b>Total Facility</b>	_____	_____	\$ _____	_____	_____	\$ _____	_____
<b>Supervision of Offenders</b>	_____	_____	_____	_____	_____	_____	_____
Dep. Sup't. for Sec. Off. Corr. Officer Personnel Facility Parole Officer Personnel	_____	_____	_____	_____	_____	_____	_____
<b>Rehab. of Offenders</b>	_____	_____	_____	_____	_____	_____	_____
Dep. Sup't. for Program Office	_____	_____	_____	_____	_____	_____	_____
Educ. Personnel	_____	_____	_____	_____	_____	_____	_____
Vocat. Personnel	_____	_____	_____	_____	_____	_____	_____
Indust. Personnel	_____	_____	_____	_____	_____	_____	_____
Corr. Couns. Personnel	_____	_____	_____	_____	_____	_____	_____
Med. Services Personnel	_____	_____	_____	_____	_____	_____	_____
Religious Couns. Pers.	_____	_____	_____	_____	_____	_____	_____
<b>Facility Support Services</b>	_____	_____	_____	_____	_____	_____	_____
Sup't.'s Office	_____	_____	_____	_____	_____	_____	_____
Dep. Sup't. for Admin. Svs. Office	_____	_____	_____	_____	_____	_____	_____
Admin. & Budget Pers. Plant Maintenance Personnel	_____	_____	_____	_____	_____	_____	_____

APPENDIX XII

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

ANNUAL POSITIONS SUPPORTED  
BY FEDERAL AND OTHER  
NON-BUDGETED FUNDS

Facility: \_\_\_\_\_

	1973-74	Filled as of March 31, 1974	1974-75	1975-76
<b>TOTAL FACILITY</b>	_____	_____	_____	_____
Supervision of Offenders	_____	_____	_____	_____
Rehabilitation of Offenders	_____	_____	_____	_____
Facility Support Services	_____	_____	_____	_____



APPENDIX XV

DEPARTMENT OF CORRECTIONAL SERVICES

Final Budget Request  
1975-76

SUMMARY  
ANALYSIS: F.S.S.

Facility: \_\_\_\_\_

	1974-75 Base	1974-75 Annual Staff	Cost Per Inmate	% of Total Budget	1975-76 Request	1975-76 Annual Staff	Cost Per Inmate	% of Total Budget
Function Total (Net)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Budgetary Savings	\$ _____	\$ XXXX	\$ XXXX	\$ XXXX	\$ _____	\$ XXX	\$ XXX	\$ XXX
Function Total (Gross)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Chief Administrative Offices	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Sup't.'s Office	_____	_____	_____	_____	_____	_____	_____	_____
Dep. Sup't. Admin. Svs.	_____	_____	_____	_____	_____	_____	_____	_____
Admin. & Budget Personnel	_____	_____	_____	_____	_____	_____	_____	_____
Plant Maintenance Personnel	_____	_____	_____	_____	_____	_____	_____	_____
Temporary Service	_____	_____	_____	_____	_____	_____	_____	_____
Supplies & Expense	_____	_____	_____	_____	_____	_____	_____	_____
Equipment	_____	_____	_____	_____	_____	_____	_____	_____

**END**

*Governor's  
Organized Crime  
Prevention Commission*

**1974  
Annual Report  
and  
Guidelines for a Comprehensive Plan**

Santa Fe, New Mexico

December 1974

16415

NEW MEXICO - GOVERNOR'S  
ORGANIZED CRIME  
PREVENTION COMMISSION -

~~1974~~

ANNUAL REPORT

AND

GUIDELINES FOR A COMPREHENSIVE PLAN, 1974



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The preparation of this report was financially aided through a federal grant from the Law Enforcement Assistance Administration; however, the conclusions and statements expressed in the report do not necessarily attach to the responsibility of the Law Enforcement Assistance Administration or to the Governor's Council on Criminal Justice Planning.



THE GOVERNOR'S ORGANIZED CRIME PREVENTION COMMISSION

120 CENTRAL S.W.  
ALBUQUERQUE, N.M.  
(505) 843-7800

MAILING ADDRESS  
P. O. Box 1805  
ALBUQUERQUE, N.M. 87103

December 1974

The Honorable Bruce King, Governor  
State of New Mexico

The Honorable Members  
New Mexico State Legislature

We have the honor of presenting to you the Second Report of the Governor's Organized Crime Prevention Commission, as charged by New Mexico Laws 1973, Chapter 225.

The First Report of the Commission said that "The Commission does not, and will not, endorse a course which would lead to anything even resembling a 'national police force'." We wish to repeat and to reaffirm that statement.

The Attorney General of the United States, William B. Saxbe, made the following remarks in late August of this year:

"If we go on as we are, there is every possibility that crime will inundate us. The nation would then be faced with the prospect of falling apart or devising a national police force in one final effort to restore domestic order.

"The nation is in deep trouble in its effort to reduce crime. The list of state and local officials convicted of federal crimes... is scandalously long.

"As other countries have learned, a police state can control common crime, but that is not our way. And it would be a dreadful mistake to slide inch-by-inch toward that chasm, centralizing the war on crime in the name of efficiency while meekly accepting a national constabulary.

"It is partly the job of every citizen, of every institution, of every business. Because if they fail, then our system of criminal justice simply will be unable to hold back the tide."

We have included these remarks in our letter of transmittal in order to underscore the critical stage the Nation has entered in its war against crime. The police state, which was once an unthinkable condition, is now, albeit with reluctance and in warning tones, a subject of serious discussion by the Nation's chief law enforcement officer. The problem and the implications for New Mexico and for all of her sister states is unmistakably clear.

The climate portrayed by the above message is not encouraging. We cannot separate the presence and the threat of organized crime in New Mexico from the problems imposed upon our society by the continuing high incidence of

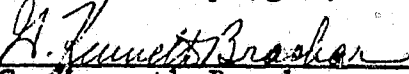
crime against person and property. In this document we are providing you a report on organized crime as examined by the Commission during the past year. We are also presenting Guidelines for a Comprehensive Plan, which we consider most valuable to present and future planning.

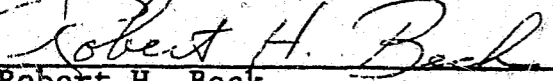
We do express our gratitude for your support and for the assistance of your Council on Criminal Justice Planning in creating what we believe is a vitally necessary component of our criminal justice system and in sustaining the organization during its critical development stage. Your insistence in maintaining a non-partisan approach and striving for maximum objectivity were essential elements for establishing the stability needed for serving public interests.

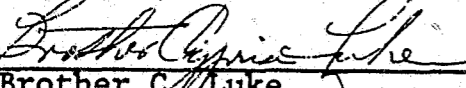
Respectfully,

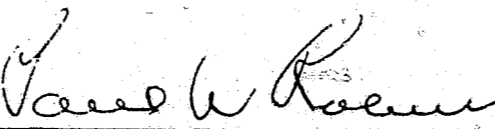
COMMISSIONERS:

  
Arthur H. Spiegel, Chairman

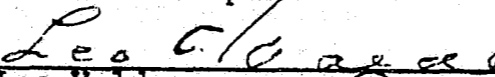
  
G. Kenneth Brashar

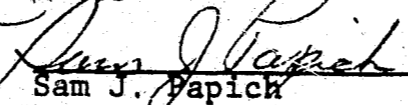
  
Robert H. Beck

  
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INTRODUCTION -

The Governor's Organized Crime Prevention Commission developed from an expressed concern over alleged inroads of organized crime into New Mexico in 1971. A study prepared by the New Mexico State Police concluded that organized crime operated within the state on such scale as to warrant corrective action.

The existence of the threat and the need for constructive counter-action were supported by conclusions of the New Mexico Council on Crime and Delinquency, the staff of the Governor's Council on Criminal Justice Planning, and further sustained by the national policy of the federal Law Enforcement Assistance Administration.

As an initial response to these developments, Governor King issued Executive Order #72-8, on August 28, 1972, creating the Governor's Organized Crime Prevention Council. It was the Council's advice that a statutory agency, with investigative capabilities, was required. With the Governor's approval, the recommendation was advanced to the Legislature during its 1973 session.

Senate Bill 302, creating the Governor's Organized Crime Prevention Commission, passed the Legislature unanimously and the enactment was signed into law by Governor King on March 29, 1973, as Chapter 225 of Laws 1973.

The Organized Crime Act, which is the short title of this legislation, is compiled as Sections 39-9-1 through 39-9-10 NMSA 1953.

Thus, New Mexico joined the more than thirty states which have established organized crime units. The states have located their units at various places in their criminal justice systems: within the state police department; attorney general's office; department of law enforcement or public safety; state purchasing commission; and as a distinct, separate unit. Twenty states have combined investigative and prosecutorial resources; the others hope to coordinate these efforts. There is no proven best structure known to break up criminal organizations at the state level. Although the effort is long overdue, it is a new task for

American society and is still in its early, experimental stages. A national conference, jointly sponsored by the Indiana Organized Crime Prevention Council, the National Association of Attorneys General and the Law Enforcement Assistance Administration, held in the latter part of October, revealed that any national strategy is still in the formative stages.

The federal government has reminded us that crime is a local affair, but organized crime, which flows freely across state and national borders, never was a 'local affair'. This sounds suspiciously like a rationalization for severe cuts in federal revenue sharing in the law enforcement area. Thus, the states are in a ferment of trial-and-error experimentation, using a variety of state legislative measures, struggling with funding, staffing and training, working to piece-together statewide information, data and intelligence systems to exchange with other states, and striving to coordinate the knowledge and efforts of local, state and federal agencies to meet and combat organized crime on its own broad and efficient level of operation.

The New Mexico Commission issued a first report in December 1973, based on efforts begun in July 1973, when the staff was established. The assessments made in that first report were largely related to the findings of other state and local law enforcement agencies, coupled with a limited number of concentrated investigations by staff personnel over a period of ten weeks.

1974 has produced extensive data which permit a far more accurate assessment. The Commission has involved itself in delicate areas. It has been the subject of constructive criticism, which it welcomes, and destructive criticism, which it accepts as a natural hazard of the undertaking.

This year has also seen the beginning of an important law enforcement coordination effort: the Commission established the Organized Crime Committee, made up of key law enforcement personnel from local, state and federal agencies. The members of this Committee are professionals who are keenly aware of the importance of coordination for the present and future of New Mexico.

The Commission established a statewide intelligence unit in 1973, and in 1974 intelligence collection and processing has been a major function of the agency.

'Intelligence' is a term that evokes visions of spying, Watergate tactics, invasions of privacy and clandestine operations. The public is correctly concerned about the abuses and crimes that have been committed under the guise of intelligence gathering.

Intelligence systems must be limited by laws, conducted by reasonable people, periodically checked by outside authority, and viewed critically by the public always.

Intelligence, which is information and the studying of information, is the primary tool for combatting organized crime, and the appropriate concern is for maintaining an intelligence operation in the proper fashion.

Good intelligence work can be very complicated, depending upon the subject, but the fact is that a large part of our lives are spent on intelligence projects.

The soaring costs of food have forced many people to engage in what can be called 'shopping-intelligence'. They look at the grocery advertisements in Thursday's newspaper and jot down the facts: Stores 'A', 'B' and 'C' each offer sales on certain items and a list is made of what will be bought in each store. After consultation with a neighbor, they agree to share a car and, as a result of their shopping-intelligence, they organize a combined shopping trip.

The bulk of the elements of intelligence work are in this household example: the gathering of information; the comparing and analyzing; the appropriate dissemination of the results; and the coordinated operation. These same elements are the basis of journalistic intelligence, of political and economic and criminal and military and governmental and commercial intelligence — of every kind imaginable.

An effective intelligence system is a necessary ingredient of the Commission's resources. The Commission must identify and assess targets for many purposes: for investigation, possible prosecution,

planning, policy orientation and decision, public information, and for training. The resources of criminal organizations, syndicates and alliances are far more extensive than those of law enforcement in New Mexico; this must be countered with the best intelligence system possible.

There has been concern expressed that the Commission could become a political tool. New Mexico has just completed a sharply-contested election period and the Commission has maintained a complete detachment from partisan politics.

During the past year, in conformance with requirements of federal grant and state funding, the Commission has been examined and evaluated by the federal Law Enforcement Assistance Administration and by the Legislative Finance Committee. The Commission is continually exposed to all law enforcement agencies; it has been in regular communication with civic groups, the academic community and the press. The Commission adheres to a firm principle of subjecting itself to penetrating scrutiny. Under no circumstances should the Commission become an agency that threatens to violate any citizen's constitutional rights or that operates as the submissive tool of any political group.

As indicated above, the Commission not only established a firm administrative and operational base but moved into action in its very early stages of existence. In the past year the Commission has reached the level of engagement with well-identified major targets. In the following sections of this report are provided the results which support this advanced step in growth and progress.

#### A. ORGANIZED CRIME IN NEW MEXICO — 1974

The organized crime activities which the Commission has investigated and analyzed in 1974 are summarized according to subject in the following sections.

##### ILLICIT DRUG USE AND TRAFFIC -

###### National situation and strategy:

For the past year, the Commission has studied and investigated illicit drug use and traffic and the enforcement countermeasures in New Mexico. The illicit drug market in New Mexico is only one part of the national and international problem and no discussion or understanding of this state's problems can be had without an overview of the entire scene.

The U.S. Strategy Council on Drug Abuse\* stated, in the Federal Strategy for Drug Abuse and Drug Traffic Prevention - 1973, that their best estimate of heroin addicts and users in the United States in 1972 was between 500,000 and 600,000, and that "the primary federal enforcement program is targetted at traffickers at all levels, with greater priority assigned to those violators who deal in large quantities of drugs, particularly heroin". The Council also stated, "In considering the drugs covered by the Controlled Substances Act of 1970, we have found the problems related to heroin addiction to be most serious and we have placed emphasis on approaches to reducing the high toll that this form of addiction exacts from our society."

In an address before the International Narcotic Enforcement Officers Association in November 1973, John R. Bartels, Jr., Administrator of the U.S. Drug Enforcement Administration, stated that heroin remains our number one drug-law enforcement priority and that there were gains against

The Council consisted of the Secretaries of State, Treasury and Defense, the Attorney General, the Secretary of Health, Education and Welfare, the Administrator of the Veterans' Administration, the Director of the Special Action Office for Drug Abuse Prevention and the Director of the Office of Drug Abuse Law Enforcement.

heroin traffic due to the pressure of law enforcement. Because of this pressure, the routes of the narcotics traffic were changing and the shortage of European (white) heroin on the East Coast was being relieved by Mexican (brown) heroin. Moreover, shipments of heroin from Southeast Asia were continuing to increase. There was also a dramatic increase in the availability of cocaine.

In an interview published in the April 1, 1974, issue of U.S. News and World Report, Mr. Bartels stated that he felt as a result of drug-law enforcement we had "turned the corner" on heroin abuse and that there were between 150,000 and 300,000 addicts at that time. He also stated that the so-called "French connection for heroin had been broken up and was being replaced by amateurs operating in Mexico and South America, coming across our Southwest border, and in Southeast Asia." Mr. Bartels also mentioned the thousands of airstrips throughout the Southwest which can be used for drug smuggling.

On June 10, 1974, the Drug Enforcement Administration (DEA) indicated that after two years of decline, heroin traffic into the United States is reported to be on the upswing, with Mexico replacing Europe as the primary source and conduit for the narcotic. Mr. Bartels stated that the brown Mexican heroin is turning up in Eastern cities and the color is one indicator used to determine source. The heroin situation is assessed by such indicators as seizures, quality of the drug, street prices and the number of deaths from overdose. However, Mr. Bartels stated that he is skeptical of most drug statistics reported by government agencies and he admits he is "not happy" even with the figures compiled by his own agency, the DEA. Mr. Bartels further stated that until recently, the Mexican heroin connection was a less organized system than the French connection, but there are signs that "these guys are starting to get organized".

Some indication of the degree to which brown heroin has supplemented the white heroin and spread from the southwestern states is a seizure on October 23, 1974, by the Chicago Police Department of 20 pounds of nearly pure brown heroin. One of the four persons arrested in connection with

that seizure was a former Mexican army colonel.

James Burke, Deputy Director of the Denver Region of the U.S. Drug Enforcement Administration, which covers the states of New Mexico, Colorado, Arizona, Utah and Wyoming, stated on September 4, 1974, that during the first six months of this year, more than fifty percent of the heroin seized in the United States was of Mexican origin. A few years ago, only 15-20 percent of the seizures was from Mexico. He further stated that, as a result of Mexico's increased role in the international drug traffic, the importance of the Albuquerque connection for opium-based drugs has increased.

Mr. Burke stated that much of the increased flow from Mexico is passing through New Mexico. It either goes through Albuquerque to Denver or Chicago and then on to northwestern or eastern cities, or across western New Mexico to Phoenix or Tucson on its way to California. Of course, a portion remains in New Mexico for the use of its addicts. The proximity to the Mexican source of supply has an effect on the purity of the street-level heroin. Mr. Burke mentioned that the heroin being used by the addicts here is probably about 7 percent, while it is only 2 or 3 percent for the same price in cities on the East Coast.

Lt. Gary Miller of the Albuquerque Police Department's Narcotics Squad, at the same time, seconded Mr. Burke's comments and added that he also was aware of the increased flow of heroin through Albuquerque, but actually the area was larger than metropolitan Albuquerque and included an area circling Santa Fe, Moriarty, Socorro and Grants. Lt. Miller put the cost to dealers in Albuquerque of heroin at \$800 to \$1,500 an ounce and of marijuana at \$60 to \$80 a pound.

The statements made by Mr. Burke are supported in the DEA Drug Enforcement Statistical Report for 1973, which lists the heroin price and purity by five regions of the country, East, Central, South, West and Northwest. West, which includes New Mexico, in the last quarter of 1973, showed the highest percentage of purity at the wholesale level, 31.5 percent, and at the retail level, 7.7 percent. In the East those percentages were, respectively, 25.1 and 4.1.

New Mexico drug scene:

The 1973 report of this Commission discussed many of the same problems that the U.S. Strategy Council and the Drug Enforcement Administration encountered. In the 1973 report, the Commission stated that the scope and extent of illicit drug use in New Mexico have inexact outlines because of the social and legal position of the illicit drug user as well as the lack of uniform experience, definitions and statistics kept by agencies concerned with drug-law enforcement and treatment. The report also established the same strategy and priorities as those of the federal government, in that the Commission stated that New Mexico law enforcement should devote a larger proportion of their enforcement resources to apprehending heroin traffickers and seizing larger amounts of heroin.

This position was buttressed by studies the Commission made in 1974 which indicated strongly that heroin addiction was causative of many other crimes, particularly burglary, larceny and robbery. Therefore, heroin addiction had more damaging effects on society than any other type of illicit drug use.

In order to more accurately assess the type and extent of illicit drug use in New Mexico, and law enforcement's priorities, countermeasures and effectiveness, the Commission, with the cooperation of the New Mexico State Police, added a drug arrest and seizure schedule to the monthly Uniform Crime Report which each agency should submit to the State Police. As soon as sufficient statistical experience is developed, these reports should provide information as to the types of drugs abused by geographical area of the state, the types of arrest (possession or sale), by drugs, and the quantities of drugs seized by type. Preliminary analysis of the small number of reports received, indicates that the major proportion of law enforcement resources are still focused upon marijuana, and that negligible amounts of heroin and drugs other than marijuana are being seized.

This preliminary analysis is supported by data from the Uniform Crime Reporting Unit of the Federal Bureau of Investigation which disclosed the percentage of drug arrests for marijuana as compared to total drug arrests

in New Mexico had increased from 71.2% in 1972 to 75.9% in 1973. The total 1972 and 1973 drug arrests in New Mexico are broken down into the following categories by percentages and are compared with the figures for the entire United States and the Western States region, as shown in the Federal Bureau of Investigation Uniform Crime Reports for 1973:

	Total Arrests		% Heroin or Cocaine		% Marijuana		% Synthetic Narcotics(A)		% Other(B)	
	1972	1973	1972	1973	1972	1973	1972	1973	1972	1973
N.M.	3,791	5,111	17.3	15.3	71.2	75.9	7.2	4.9	4.3	3.9
W. St. Reg.	-na-	-na-	15.1	13.0	56.3	63.6	14.9	4.7	--	--
U.S.	527,400	628,900	21.4	14.0	55.4	66.9	8.9	5.3	14.3	13.8

(A) Manufactured narcotics which can cause true drug addiction (Demerol, Methodones)

(B) Dangerous non-narcotic drugs (barbiturates, amphetamines)

The above statistics may overstate the number of drug arrests in New Mexico. There are strong indications that when more than one law enforcement agency participates in a drug arrest, each participating officer submits a report to his own agency. At the end of the month and year it is probable that each of those agencies includes the arrest in the Uniform Crime Report submitted to the FBI. It is therefore entirely possible that the same arrest may be reflected in the reports of two, three or four agencies. Therefore, it can be assumed that the reported New Mexico drug arrests are overstated by some unknown factor.

The foregoing table indicates that the nation, the Western States region and New Mexico, although increasing the total number of drug arrests, have substantially increased the percentage of those arrests which are for marijuana and have reduced the percentage for heroin (on a national basis by about one-third). These arrest figures are subject to numerous interpretations, among which the most likely are: (1) that the use of marijuana has become a much larger proportion of illicit drug use and

that the use of heroin a much smaller proportion; (2) that law enforcement is having a much more difficult time making heroin cases and accordingly has shifted to marijuana cases; (3) that the manpower and resources devoted to drug-law enforcement are excessive; or (4) that law enforcement has increased emphasis in the enforcement of the marijuana laws at the expense of heroin enforcement.

It is considered unlikely that (4) is a logical explanation in view of the position and priorities expressed by the U.S. Strategy Council on Drug Abuse, the U.S. Drug Enforcement Administration, the National Commission on Marihuana and Drug Abuse, and the actions of scores of state legislatures in reducing the penalties for marijuana violations. Accordingly, we are left with explanations (1), (2) and (3), any of which have major implications for the criminal justice system.

If (1) or (3) is the explanation, we must re-evaluate whether the time, money, manpower and other resources which are presently allocated to drug enforcement are warranted, and, if not, decide if they can better be used by the police departments in combatting the Index Crimes (murder, rape, robbery, aggravated assault, burglary, larceny and auto theft) or if those resources can better be used by another segment of the criminal justice system such as prosecutors, courts or corrections.

However, if explanation (2) is the cause, we must re-evaluate our entire system of personnel selection, training, organization, prosecution and drug legislation to determine where the defects are and correct them to improve our ability to investigate and prosecute heroin cases.

Whatever the cause of the major shift in percentage of arrests to marijuana, serious study must be given to this problem by the U.S. Department of Justice and its two agencies, the Drug Enforcement Administration and the Law Enforcement Assistance Administration, as well as the executive and legislative branches of state government.

Again referring to this Commission's 1973 report, it was stated that there was no central file of the number of seizures and the quantity and type of drugs seized nor, in the case of heroin, was there any qualitative analysis to disclose the percentage of the seized substance that was in fact heroin. In order to obtain this and other information, the Commission initiated an Illicit Drug Intelligence/Arrest Form to be sent to the Commission by all of the larger enforcement agencies and selected other urban and rural agencies. These forms provide such data as type and quantity of drug seized, purity (if heroin), whether drug arrest resulted from routine patrol or specific investigation, name and address of the subject, whether subject is a heroin addict, was armed, and numerous other items of information. It is expected that this system will ultimately provide much intelligence, planning and assessment information.

In 1974, the Commission conducted a study of the drug arrests in the city of Santa Fe for the year 1973 and the first four months of 1974, to determine the types and incidence of illicit drug use, the arrests for drug violations, the amount of drug seizures and the relationship, if any, between illicit drug use and property crime. During the period surveyed, the Santa Fe Police Department had a three-man drug squad, and the District Attorney's Office, of the First Judicial District, had a four-man metropolitan area burglary squad. There were numerous occasions where data as to drugs seized, or criminal record showing the property crime involvement of drug arrestees, were not available. Accordingly, the study lacks the optimum data base but we believe that sufficient data was available from which to draw certain inferences and conclusions.

Analysis of the arrest and seizure data discloses that the principal effort, as reflected in arrests in Santa Fe, appears to be directed at marijuana violations. Statistically at least, heroin enforcement appears to be a very small part of the total drug enforcement effort. Poly-drugs, according to the arrests, do not appear to be a significant drug problem.

A recapitulation of the arrest and seizure totals is as follows:



Total 1973 arrests were 264 of which 145 were analyzed.

	Arrests		Seizures	
	1973	1974 (4 mos.)	1973	1974 (4 mos.)
Heroin	7	4	15 gr.	3.6 gr.
Marijuana	123	65	150 lbs.	3.0 lbs.
Cocaine	-0-	3	-0-	2.1 oz.
Other Drugs	15	10	-insufficient data-	

The criminal records of the 145 individuals arrested for drug violations in 1973 (an insufficient number of criminal records for 1974 arrestees was available) disclosed that prior property crime charges appeared in approximately 43% of the arrests on heroin charges, 27% on other drug charges and 14% on marijuana charges. No attempts were made to determine alcohol arrests or their relationship to property crime.

A Santa Fe law enforcement official stated that in 1973 the burglary squad participated in 492 arrests. It is his best estimate that approximately 50% of the burglaries and larcenies are linked to heroin addiction.

The drug squad of the Santa Fe Police Department is also charged with the responsibility for internal security investigations. The two responsibilities place major workload burdens on the squad and they are required to exert major efforts in performing these responsibilities. However, with the small squad and the pressures for marijuana enforcement exerted by citizens, civic groups, the news media and political officials, and because of the division of manpower to assist uniformed officers in very small cases arising from routine patrol, the squad cannot concentrate their efforts on the heroin users, much less the traffickers. This is frustrating for the officers in the squad and prevents the drug enforcement efforts from having the desired impact on heroin traffic and on the heroin-related crimes of burglary and larceny.

New Mexico with its large area (121,666 square miles), sparse population, and its 180 miles of border with Mexico offers nearly perfect conditions for aerial drug smugglers. As a result, it has become the center for a large number of these criminals. The New Mexico State Police estimate that over 100 pilots and aircraft are currently engaged in this type of operation. An example of the organization, equipment and sophistication possessed by these smugglers is a case made by the New Mexico

State Police and the DEA in October 1973 which resulted in the apprehension of three pilots, and five smugglers on the ground, the seizure of three aircraft, seven motor vehicles and 2,100 pounds of marijuana.

On October 13, 1973, U.S. government and New Mexico State Police pilots observed three aircraft piloted by Robert E. Burke, Duane B. Morrison and Martin Houlton fly to Mexico to pick up a load of marijuana and fly the drug back to New Mexico. The marijuana was dropped off at a remote location near Magdalena, New Mexico, where five men were waiting to unload it and guard it prior to transshipment. After unloading, the three aircraft flew to their home base at Columbus, New Mexico, where the pilots and one passenger, Michael L. Francis, were arrested and the aircraft seized. The sophistication of this smuggling operation was evidenced by the fact that they had ground-to-air communication whereby they were not locked-in to any specific predetermined landing point. Through the use of the communications equipment, the ground members of the operation could wait until the last minute to decide the safest location to land and unload.

On February 3, 1974, the eight members of the group pleaded no contest to the fourth-degree felony charge of possession of more than eight ounces of marijuana. Their pleas were accepted by the District Attorney. On February 26, 1974, each of the eight defendants received eighteen-month deferred sentences, supervised probation and \$1,000 court costs. Among the defense attorneys participating in the case was Lee A. Chagra of El Paso, Texas, who is himself under indictment with 39 others in the U.S. District Court for the District of Tennessee on charges of conspiracy to possess marijuana with intent to distribute in violation of the U.S. Code. On October 17, 1974, Burke, Morrison, Houlton, Francis and Kenneth B. Phillips and Kenneth Croucher were convicted in U.S. District Court, El Paso, Texas, of conspiracy to import marijuana and possession with intent to distribute marijuana. Sentencing is set for December 2, 1974. The aircraft seized have been forfeited to the State of New Mexico.

On August 18, 1974, eight residents of El Paso, Texas, were arrested near Roswell, New Mexico, in connection with the aerial smuggling of

2,400 pounds of marijuana. Among those arrested was Jack M. Strickland, who is one of the 40 persons, along with the previously mentioned Lee Chagra, attorney, indicted in Tennessee.

Organized features of illicit drug traffic:

The high degree of organization and the number of people involved in this criminal activity is amply illustrated by cases in the foregoing section. These organized-crime groups had adequate manpower with specialized skills, some of the most expensive aircraft, sophisticated radio communications equipment, contacts in Mexico, large amounts of money and access to highly skilled legal counsel. This is the type of organized crime that our criminal justice system, with limited manpower and resources, must combat.

Intelligence strongly indicates that there are large groups, 40 or more people in each group, involved in drug smuggling and distribution. Six to ten of these people, each with specialized skills, come together for a particular operation, complete it and separate. On the next operation, six to ten people of the same organization again come together, and included may be some or all of those in the previous operation. This permits a continuity of operation while minimizing the risks of exposure and consequent apprehension by the authorities. Included in these rings are all types of individuals including pilots, businessmen, professional men, students and others.

A recent release by the DEA stated that there may be, nationally, as many as two dozen major marijuana rings, run by businessmen, that haven't yet been cracked. Last spring, DEA broke up four large organizations in Florida, California and along the Gulf Coast. In each case, ostensibly honest businessmen were found to be bankrolling and directing the operation. In the Florida case, more than a dozen attorneys, loan executives and businessmen were found to be bankrolling and running an operation that brought in more than eight tons of marijuana by way of deep-sea pleasure craft.

The Commission, in cooperation with other law enforcement agencies, has developed information indicating that businessmen and professional

men are involved in drug smuggling operations in New Mexico and that they deal not only in marijuana but also are engaged in heroin smuggling and distribution.

The Commission presently has under investigation several of these large heroin smuggling and distribution rings. Some of these rings involve thirty or more individuals in New Mexico, Arizona, Colorado, California and Mexico. The individuals involved are mainly 'hard core' criminals who have long criminal histories for violent and property crimes. These groups are major sources of drug supplies in the state.

Officers assigned to drug enforcement in New Mexico display a high degree of ability and dedication and are devoting long hours and great effort, often at serious personal risk, to combat the drug problem. However, despite this commitment of skill, effort and resources, we are failing to stem or even remain abreast of the heroin addiction and distribution tide. Planning, coordinated strategy and the establishment of priorities against drug trafficking are inadequate. The Albuquerque Police Department and the New Mexico State Police are concentrating their efforts on the heroin traffic. But even those agencies, in 1973, had lower proportions of heroin arrests. The Albuquerque Police had the highest proportion at only 36 percent. There are encouraging indications that 1974 will see a larger proportion of heroin arrests in the state.

In the Commission's 1973 report, it was estimated that approximately 227 pounds of 35% pure heroin are required yearly to supply the estimated 4,000 addicts in New Mexico. Last year, 1973, the State Police, Albuquerque Police and the Bernalillo County Sheriff's Office, combined, made a total of over 90% of the heroin arrests in the state. In the absence of any total statewide seizure figures, it is necessary to estimate the total seizures of heroin by extrapolating the seizure figures of these agencies which, combined, seized a little over 11 pounds of heroin (purity unavailable). Assuming the seizures were proportionate to the arrests, it would indicate a little over 12 pounds of heroin was seized by all the agencies in the state. That amount of seizure, if it were at least 35% pure, would be approximately one-nineteenth (1/19th) of the amount of heroin needed by the addicts in the state.

Although many of the law enforcement agencies set drug priorities and attempt to target major traffickers, particularly in heroin, in numerous instances their efforts become fragmented or diverted, or fail for lack of money or adequate time and personnel. These agencies are forced to divert personnel from established objectives for such reasons as: the need to react to complaints and pressures from citizens and civic groups concerning relatively inconsequential neighborhood drug activities, or to respond to uniformed patrol personnel who have stopped and searched a vehicle and located marijuana. Normally, these types of chance street arrests and seizures do not involve people other than young drug experimenters or an expendable courier or 'mule'. Yet, this type of activity ties up one or more specialized investigators, the time of an assistant district attorney, perhaps the courts, and causes numerous other drains on the criminal justice system. Most importantly, these demands on the drug squads prevent sustained and concentrated investigation of major traffickers.

There are other factors that frustrate and discourage the drug enforcement officers and these will be discussed in the Guidelines section of this report. [see page 98.]

In order to investigate and convict major heroin traffickers and to seize larger quantities of narcotics, law enforcement in New Mexico requires a strike force or team approach. This strike force should have the required personnel, both investigative and prosecutive, and all other necessary resources, and most importantly it should have the time and support necessary to concentrate on major targets. To operate properly, all statistical criteria should be eliminated and the results judged primarily on the quality of the convictions.

#### Corruption and illicit drug traffic:

In the prohibition era of the nation's history, corruption of police and prosecutors for the protection of bootlegging and speakeasy operations was rampant. When prohibition ended, many of the bootleggers went into gambling activities, and pay-offs for the protection of gambling operations became the major source of law enforcement corruption, and

remained so for over thirty years. However, in 1973, there appeared indications that drugs were becoming a greater potential source of law enforcement corruption.

A study conducted by the New York City Police Department in 1973, which included such techniques as interviewing hundreds of confidential informants, the examination of the transcripts of scores of court authorized wiretaps and the examination of allegations of corruption against members of the department, disclosed that drug enforcement had become a larger threat to the overall integrity of the police department. Subsequent to this study, a number of New York City Police officers assigned to a special narcotics unit were indicted for corruption.

In the late 1960's, the New York office of the then Federal Bureau of Narcotics (which subsequently became part of the DEA) had several agents indicted, convicted and dismissed on various charges of misconduct in connection with drug investigations.

In October of 1974, the DEA announced that it had arrested one of its own agents, who had been stationed in Douglas, Arizona, on a nine-count indictment which included illegal distribution of marijuana and conspiracy. In the course of this investigation, it was determined that quantities of seized marijuana were missing from the DEA evidence room in Douglas. Also in October 1974, an agent of the Narcotics Division of the New Mexico State Police was arrested by the New Mexico State Police and the DEA for distribution of 100 pounds of marijuana, for \$8,000, to a DEA undercover agent. At his arraignment, the agent was represented by an El Paso, Texas, attorney, Lee Chagra, who, as was noted earlier in this section, is himself under federal indictment.

During the past year, there have also been numerous allegations and investigations into the activities of criminal justice personnel in the nation regarding the means and methods used in obtaining and executing search warrants, and into the possible planting of evidence in order to arrest suspected drug violators. Very few, if any, of these allegations have been proven, but they do surface with some degree of regularity.

The subject of the integrity of the criminal justice system and its

personnel is one which has been receiving serious attention from the leaders, and the rank and file, of the law enforcement profession. It is an area that requires the closest continuous monitoring and supervision to avoid serious damage to the profession and the vast majority of its honest and dedicated personnel. Drug enforcement has many factors in common with the two classical crimes involving corruption, liquor and gambling. All three forms of criminal activity involve large sums of money, are consensual crimes without a victim, can be readily rationalized by law enforcement personnel and, in the case of marijuana, are not believed to be inherently evil or wrong by a large proportion of the population. If history is any guide, corruption in connection with drug enforcement will continue to be a constant danger.

Available evidence does not indicate any major corruption of New Mexico law enforcement in the drug traffic field. Opportunities for corruption in this field are not limited to New Mexico law enforcement; they extend to the entire criminal justice system, as well as to all other branches of government.

#### Responsibilities of the news media:

The focus, comprehension and knowledge of the communications media are essential to the success of the federal government's, and of New Mexico's, efforts against illicit drug use and traffic. The media should be informed as to the various types of drugs, their effects upon the individual and society, the priorities in enforcement, definitions of the terms used in drug enforcement, what constitutes a major case and effective enforcement, and what constitutes a large number of non-related arrests of street users, what the actual value is of drugs seized (rather than press-release values), and the importance of ascertaining the purity of large amounts of seized heroin.

The media can also re-evaluate the methods by which they determine the placement, space and emphasis that is given to drug enforcement news. A chance arrest by a uniformed officer of a courier with several hundred pounds of marijuana is given front-page treatment with photographs, while a lengthy, major investigation of several heroin traffickers receives

small space in the body of the newspaper, or, if radio or television, the lesser case receives air time while the major case does not.

Investigative reporting can also be a valuable asset in informing the public as to the true effectiveness of the operations of the police agencies. Reporters who can penetrate the mass of statistics and determine what is important can serve a need for the citizens and the law enforcement agencies. The media can help to educate the public and public officials to place less reliance on statistics and more on the quality of the cases made by the police agencies, thereby permitting those agencies that do target and arrest major traffickers to receive the credit and public support they deserve without having to resort to the 'numbers game'.

Essential to all of the foregoing suggestions is some form of education and training program, or seminar, for the representatives of the media: editors, publishers and reporters alike. This program, which could be conducted by a federal, state or local law enforcement agency, would provide an overview of drug use and enforcement and greatly assist in the accurate coverage of drug stories.

#### Priorities of drug enforcement:

As has been mentioned previously in this report, the federal government and this Commission have both expressed the view that heroin trafficking has the most damaging effects on the addicted individual and on society as a whole. In the 1973 report of this Commission, it was stated that the estimated 4,000 heroin addicts in the state required a minimum of \$3,000,000 a month to purchase their required heroin. To obtain this amount of money from property crimes requires from three to five times that value.

The DEA Drug Enforcement Statistical Report for 1973 shows the following nationwide average cost of heroin per addict, as of December 31, 1973, as 50 milligrams of heroin a day, at a heroin cost of \$1.10 a milligram, for a yearly total cost per addict of \$20,075. If we assume that a burglar receives approximately 20% of the value of stolen goods from a fence, the burglar must steal property valued at \$100,375

in one year just to support his heroin habit. This would require the addict to commit hundreds of burglaries a year. The Commission interviewed a convicted burglar (an admitted addict whose habit was about double that in the above illustration) who stated that he committed an average of one burglary a day, and sometimes two or three. It is obvious what such desperate financial demands will do to the crime rates and the peace and safety of a community.

No other illicit drug of abuse makes such extreme financial demands upon the user as to compel the commission of numerous other crimes. Accordingly, the Commission feels that first enforcement priority must be given to heroin trafficking and that manpower and resources be so allocated and directed. It is imperative that the responsible leaders take the action necessary to implement this priority of enforcement.

#### INFILTRATION OF BUSINESS BY ORGANIZED CRIME -

In its early stages of existence in 1973, the Commission's inquiries and investigations disclosed disturbing indications of emerging large-scale penetration of legitimate business, carrying with it the characteristics of potential fraud and corruption.

The Commission continued its operations designed to pinpoint evidence of criminal infiltration of business; this infiltration is a significant segment of what is referred to as white-collar crime. The work of the Commission has largely been concentrated on the type of white-collar crime that effects the stability of a commercial institution, an industry, or a business that is important to the economy of a community. As the Commission has developed its intelligence, there has been dissemination of the information to the appropriate agencies.

The Commission's most active involvement centered around events relating to alleged 'milking' of the Great West Savings and Loan Association. The case illustrates how a New Mexico business can be infected by questionable elements and it illustrates the glaring deficiencies of the state in countering such activities. This is not an isolated case. Events which transpired revealed conditions and obstacles which could be experienced in other fields closely associated with the state's economy and welfare.

#### Great West Savings and Loan Association:

Great West was founded in 1960 and is one of four uninsured savings and loan institutions in the state.

In 1971 the firm was reorganized when the majority of the stock was purchased by Johnnie T. Patton, a real estate developer from Reno, Nevada. Ben Evans, also a stockholder, became president and general manager. Evans

and Patton reportedly met when Evans was associated with a savings and loan association in Reno in 1963. Evans has had extensive experience in the savings and loan business dating back to 1937. Patton and Evans were the prime movers in the reorganization that took place.

Evans has been quoted as stating that the total assets of Great West were \$50,000 in 1971. A rapid development in growth took place and reached a point in 1972 where Evans was able to loan \$408,308 to a corporation essentially under his control. This was the E.B.P., a construction firm that included Evan's wife and Patton as investors.

A brochure issued by Great West on December 31, 1973, disclosed the following:

ASSETS	June 29, 1973	December 31, 1973
First mortgage loans	\$2,434,790	\$4,297,760
Savings account loans	49,731	139,101
Other loans	49,106	87,657
Real estate sold on contract	291,294	288,382
Real estate owned	72,846	119,050
Cash on hand and in banks	51,600	196,583
Other investment securities	- 0 -	68,500
Office building furniture and fixtures	83,620	87,883
Other assets	82,340	104,450
<b>TOTAL</b>	<b>\$3,115,327</b>	<b>\$5,389,366</b>
<b>LIABILITIES</b>		
Savings accounts	\$2,212,855	\$1,031,849
Savings certificates	- 0 -	2,233,253
Loans in process	410,322	1,484,903
Borrowed money	226,500	349,500
Other liabilities	118,680	110,001
Capital stock, surplus and reserve	146,970	179,860
<b>TOTAL</b>	<b>\$3,115,327</b>	<b>\$5,389,366</b>

**DIRECTORS:** Johnnie T. Patton, Chairman of the Board

Ben F. Evans  
 Emma Evans  
 Gene Wood  
 John Dal Santa

**OFFICERS AND STAFF:**

Ben F. Evans, President and Managing Officer  
 Emma Evans, Secretary and Treasurer  
 Robert E. Boyer, Vice President  
 Olivia Troxle  
 Mary Overheim

Allen Thoreen:

The appearance of Allen Thoreen and his associates introduced a very significant element, one that has to be seriously examined when evaluating the Great West case.

The Commission became interested in Thoreen and his associates early in 1973. This interest was augmented by inquiries from outside of the state pertaining to the establishment of trust companies and alleged involvement of Thoreen in organizing trust operations. There were allegations of corporations being established in New Mexico having connections with out-of-state corporations implicated in fraudulent sale of real estate contracts and securities. Attempts by the Commission to induce federal agency investigative involvement were unsuccessful, not because of lack of interest, but because of precedence of other priorities and lack of jurisdiction. State resources were woefully inadequate to conduct a penetrative inquiry.

Investigation disclosed that a number of trust companies were established in New Mexico during a period when trust companies were regulated under the General Corporation Laws and not subject to any special regulations. Thoreen was involved in organizing trust companies, including Banker's Trust Company, Inc., Western Trust Company, Inc., and Commerce Trust Company, Inc. The trust company activity does relate to subsequent

developments involving the troubles of Great West.

Banker's Trust Company, Inc. was incorporated on July 28, 1972. Its principal place of business was in Albuquerque. According to the articles of incorporation, the company was to deal in real estate mortgages, carry on general investment business and trust business, including acting in fiduciary capacities. The incorporators, as listed in the articles of incorporation, were James Price, 430 South Main, Las Cruces, New Mexico; Harold C. Wright, 230-D Frito Lay Tower Exchange, Park, Texas; and A. B. Brice, 109 North Oregon Street, No. 1333, El Paso, Texas.

Commerce Trust Company, Inc. came into existence on May 5, 1971, and was engaged in the same type of business as Banker's Trust. Its principal place of business was in Albuquerque, New Mexico. The incorporators of Commerce Trust, according to the articles of incorporation, were Richard G. Harper, 1721 Sigma Chi Road N.E., Albuquerque, New Mexico; Allen A. Thoreen, Brooks Tower, #302, Denver, Colorado; and Jean E. Thoreen, 1311 San Pedro Drive N.E., Albuquerque, New Mexico.

The third company, Western Trust Company, Inc., was the first to exist among these three trust companies and had the same address as Commerce Trust, which apparently succeeded Western Trust.

Thoreen was president of Western Trust Company, Inc., an incorporator of Commerce Trust Company, Inc., and general counsel for Banker's Trust Company, Inc. He had the reputation of being a most competent attorney and he had already come to the attention of law enforcement in Colorado. A subject of attention in Colorado was a firm known as World Acceptance, Inc., which had been experiencing financial difficulties. It was reported from Colorado that one of the affiliates of World Acceptance, Inc. was listed as Western Trust Company of Albuquerque. Names of other personalities, some with very questionable backgrounds, entered the scene. This stemmed largely from out-of-state communication.

One of the individuals whose exact role was unknown was Francis Patrick O'Neill, who has been publicly described as a professional swindler and who has operated in several states. Included among charges

against him was "Sale of unregistered securities (fraud); conspiracy to sell unregistered stolen securities".

Investigation and research disclosed that New Mexico laws pertaining to trust companies have been carefully reviewed by would-be speculators. Such speculators concluded that New Mexico had no specific laws regulating trust companies other than the laws regulating corporations generally. Their interpretation was that trust companies were not subject to annual audit or subject to approval by a commission, and, in general, were left without supervision. Such speculators believed that these trust companies could deal in securities without violating federal or state security laws.

They planned that the trust company would operate as follows: A salesman would be employed to contact persons who had money to invest. The corporations had a lengthy agreement which they called a trust agreement and which the salesman would have the investors sign. The customers were investing in the trust. The corporation, which designated itself as 'trustee', would manage this money and guarantee certain returns on the customer's investment.

These trust companies appeared to be a mutual fund. A logical question was: "Did these organizations hope they could sell securities without attracting the attention of, or without being regulated by, either federal or state securities commissions?"

These activities, however, did not go unnoticed by security authorities and the first agency to take action was the Securities Division of the New Mexico Banking Commission. On February 12, 1973, the Banking Commissioner filed a Cease and Desist Order against Banker's Trust Company, Inc., alleging that Banker's Trust had issued or was issuing instruments entitled 'registered deposit certificates'. One of these certificates was in the amount of \$1,000,000, bearing 8% interest, dated January 5, 1973, and it had appeared in London, England. Other such 'certificates' had been used by various individuals throughout the United States as a basis for loans and other financing arrangements. The Securities Division contended that this type of certificate was a security that should be

registered with the state. Another allegation of the order was that the name, Banker's Trust Company, Inc., was similar to Banker's Trust Company of New York, with which company there were no connections. The order provided the trust company an opportunity for a hearing on any of the allegations. A financial statement of the Banker's Trust Company, Inc., which purported to show the assets and liabilities as of January 5, 1973, indicated that the corporation had total assets of almost \$19,000,000, with such diversified activities as shopping centers in Arizona and oil wells in Mexico. However, the corporation did not contest the allegations of the order of the Securities Division of the Banking Commission. In February of 1973, about the same time that the order was issued, Banker's Trust Company, Inc. appeared to cease business in New Mexico.

Activity in the Legislature had its impact on developments pertaining to trust companies. House Bill 314 (the Trust Company Act) was introduced and was directed toward a 'tightening-up' on trust companies. On March 23, 1973, a few days before the Trust Company Act became law, David Norvell, State Attorney General, authored an opinion to Governor Bruce King indicating Norvell's objection to the passage of this new law. His main objections were the hardships it might place on small trust companies in meeting the capital requirement. Norvell was of the opinion that the law was unconstitutional because the subject matter of the bill was not adequately contained in the title.

After Governor King signed the Trust Company Act, difficulties developed between the Attorney General and the State Banking Commissioner, who was, of course, bound to enforce the new law.

On September 21, 1973, the Securities and Exchange Commission filed an application for an injunction, naming as defendants several individuals and companies, among which was Banker's Trust Company. The SEC made the following allegations:

1. Banker's Trust Company, Inc. was selling trust agreements and issuing evidences of indebtedness which the SEC felt were securities and should be registered with the SEC;
2. Banker's Trust Company, Inc. was making misleading and fraudulent representation to the purchasers of these trust agreements,

in that the salesman would represent certain guaranteed returns on the invested money and this was not being accomplished;

3. the purchasers of these agreements, although assured that through a simple procedure their investment would be returned, found that their requests were ignored;

4. that the financial statement dated January 5, 1973, was fictitious; and

5. that Banker's Trust falsely represented that it was subject to the regulation and annual audit of the New Mexico Banking Commission.

Additional investigation introduced a new personality in the person of Wayne Pirtle, who was residing in Prescott, Arizona. Pirtle's involvement in the operation of trust companies in New Mexico first appeared in 1971. He was in Prescott, Arizona, where he passed several checks which had been drawn and signed by Thoreen on behalf of Western Trust, Inc., and made payable to Pirtle. Pirtle's checks were returned, marked 'Insufficient Funds'. There was no prosecution and the matter was civilly settled.

Wayne Pirtle was also associated with a corporation called South-West Fidelity Trust Company, Inc. This company was incorporated in New Mexico on October 18, 1971, to engage in the same type of business as Banker's Trust. The directors and incorporators were: A. B. Brice (Mrs. Wayne Pirtle) of Phoenix, Arizona, who later was an incorporator of Banker's Trust Company, Inc.; S. W. Pirtle of Phoenix, Arizona; and B. J. Palmer (Mrs. Allen Thoreen).

In February 1973, Allen Thoreen and Senator Anthony Lucero, State Senator from Bernalillo County, filed articles of incorporation in New Mexico for two new corporations.

One corporation was Congress Industries, Inc., which was to conduct the business of selling and originating real estate mortgages and to carry on financial and investment business, and to act as brokers and dealers in real and personal property and in securities. The incorporators of Congress Industries, Inc. were Anthony A. Lucero, 2010 Rio Grande N.W., Albuquerque, New Mexico; Perry L. Hutchings, 2005 Hoffman Drive N.E., Albuquerque, New Mexico; and S. W. Pirtle, 2535 Parisian Way, Albuquerque, New Mexico, a non-existent address.



The other corporation was the Congress Mortgage Company, Inc., which had the same incorporators as Congress Industries, Inc. The articles of incorporation of these two companies were identical, except for the name of the company. At the time of filing, Allen Thoreen paid the filing fees for the two corporations in cash, but directed that the receipt for the money be made out to Perry L. Hutchings. When Congress Industries and Congress Mortgage Company were created, Anthony Lucero was also an incorporator in an existing corporation known as Zia Tile Company, Inc., which had been incorporated in April 1971. The business purpose of Zia Tile Company was to manufacture and sell floor coverings and also to engage in general contracting work.

On May 15, 1973, the State Corporation Commission received documentation indicating that the name Zia Tile would be changed to Congress Construction Company, Inc. The documentation further indicated that the new president of Congress Construction Company would be Anthony A. Lucero, and the vice president would be Wayne Pirtle. The address for the new corporation, Congress Construction Company, was given as 127 La Veta N.E. in Albuquerque. Allen Thoreen was listed as the registered agent for the corporation. All these Congress corporations were located at 127 La Veta N.E. in Albuquerque. When Zia Tile Company became Congress Construction Company, Inc., the Construction Industries Commission received a letter from Anthony Lucero, vice president of Congress Industries, Inc., signed by S. W. Pirtle, president of Congress Industries, stating that as of May 15, 1973, Congress Industries would assume responsibility as a general contractor at various locations in Albuquerque.

After the 'Congress' corporations came into existence, investigation disclosed a link with the DML Leasing Company in Phoenix, Arizona. DML had the same Phoenix address once used by Banker's Trust Company, Inc. One of the officials of DML had previously served as office manager of Banker's Trust in Albuquerque. Another official of DML had been connected with Centennial Investment Associates, Inc., an El Paso firm. This particular firm was listed as a co-defendant in the injunction brought by SEC for engaging in the same practices as Banker's Trust Company, Inc.

The information developed concerning a relationship between Allen

Thoreen and Great West was directed to the attention of appropriate state officials who were already concerned about the financial status of Great West. The Organized Crime Commission was asked to refrain from any action which in any way might induce a 'run' on other savings and loan associations. The Commission was also requested to discontinue any efforts to examine the records of Great West on the premise that the Commission's investigation might interfere with auditing, which was to be initiated. The expressed purpose for this policy action was to pursue every possibility of saving available assets for the depositors. The Commission complied with the request.

Rumors concerning the shaky financial condition of Great West were circulating early in 1974 and finally resulted in newspaper publicity. When Great West was placed into receivership on May 10, 1974, it was reported that auditors had found a deficit of \$592,000. It was further brought out that Thoreen and his associates, or their firms, or both, had received over \$460,000 in loans. These were preliminary findings of auditors.

Foreclosure suits filed in the Great West matter accused Thoreen, Pirtle and Harper of using different names to conceal that they were working together and that "the corporations have never had and do not now have any separate corporate existence, but have been used just for the purpose of permitting the individual defendants to transact... their individual businesses under a corporate guise."

Pirtle allegedly owed Great West a total of \$170,000 from loans made during the period August-December 1973. Thoreen and Harper owed \$56,493 on loans for the same period. It was further reported that Harper was issued over \$118,000 in checks written to Fiscal Services Inc., in April 1974, just prior to Great West's going into receivership. Fiscal Services appeared to be the disbursing agent for loans obtained by the 'Arizona Congress Industries Group' for a real estate development near Phoenix, Arizona. The development was never completed and there is question whether any of the funds were used on this development.

Funds loaned to Pirtle and Thoreen allegedly were to be used for purchasing and developing of lots in northeast Albuquerque. Examination

disclosed some partially completed homes and vacant lots.

Matters pertaining to construction of homes are receiving the attention of the District Attorney's Office.

The role of Attorney General Norvell is significant when examining the developments. He did become involved in the controversy pertaining to trust companies, as explained above. In addition, there are unclarified circumstances relating to Norvell's purchase and financing of a piece of property in Taos; this matter was publicized in the press. It was alleged that Norvell received a loan from Great West for this purchase. This has been denied.

The foregoing report on Great West Savings and Loan Company is a summary of significant developments which certainly do not portray an effective protection of public interests. The obvious deficiencies do not necessarily imply an indictment of any one responsible official or agency. They do clearly support a demand for collectively implemented countermeasures. In brief, the Great West case disclosed the following:

1. entirely inadequate state investigative resources and expertise to cope with the complexities of operations of financial institutions;
2. completely unsatisfactory coordination of existing resources, including the lack of needed direction;
3. lack of harmonious communication between the office of the Attorney General and law enforcement;
4. apathy or neglect on the part of officials of commercial institutions to communicate with law enforcement when irregularities affecting the public's welfare are developing;
5. inefficient communication and exchange of intelligence data among states regarding financial operators; and
6. in the absence of insurance coverage, depositors are left in a most vulnerable position.

In addition to the Great West case, the Commission developed data pertaining to other cases in the white-collar crime field. Such information which related to potential prosecution was transmitted to appropriate state and federal agencies.

Allegations relating to land frauds have been received and have been followed, but they have not yet received the desired concentrated attention. The overall target requires a specialized investigative team that has, so far, not been available. Charges have been made that complaints have not been aggressively pursued by law enforcement and that the attitude toward prosecution has been generally apathetic.

The Great West case, coupled with other intelligence collected and further accentuated by concern expressed at the national level, causes this Commission to attach major priority to white-collar crime. The Commission already is making resource adjustments in order to give increased attention to this activity.

FENCING (DISTRIBUTION OF STOLEN GOODS) -

The fence, defined as a receiver of stolen property, is the key element in the distribution of stolen property (see chart on next page). The shortage of law enforcement personnel has prevented a concentrated attack on fencing targets. Law enforcement in this state, and in the rest of the country as well, is confronted with the task of reducing the record-high property crime rate.

Property crimes cost the U.S. citizens approximately \$16 billion in 1973. The city of Albuquerque, in the same year, reported the loss of \$6,764,704 from property crimes, of which \$2,131,613 was recovered. The Bernalillo County Sheriff's Office reported a total value of property crimes in the amount of \$1,337,652, with the recovery of \$318,685. This data does not include hundreds of thefts, such as pilferage of shipment, shoplifting and burglaries that are not reported to the police.

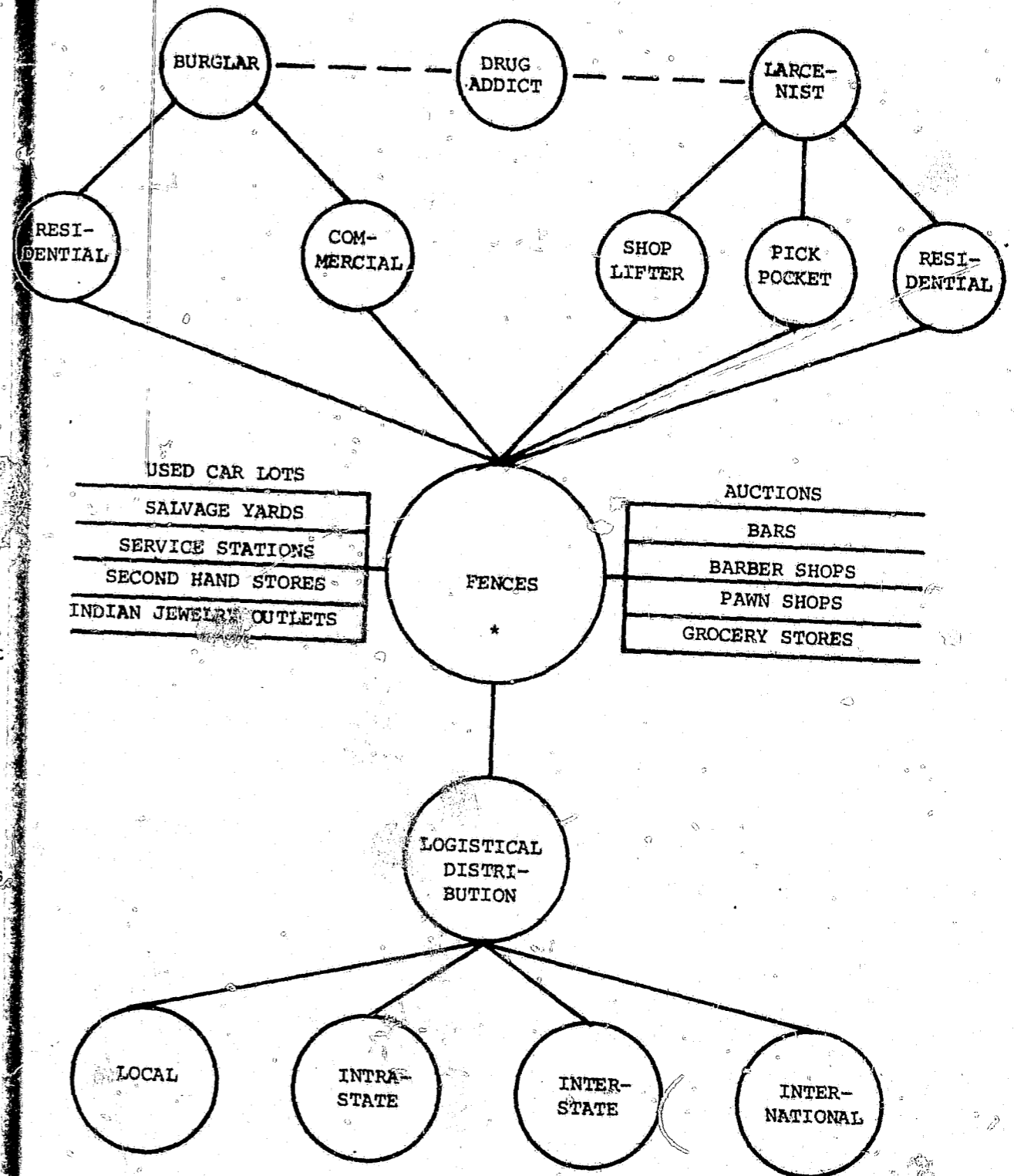
The Commission initiated investigation and research, in cooperation with the Albuquerque Police Department, to determine the nature and extent of organized fencing operations in Albuquerque. After a preliminary survey, it was concluded that the costs of a hearing would impose a heavy load on the budget, and that almost the same objectives could be achieved by investigation, research and analysis. There was also the problem of conducting a hearing where the testimony could jeopardize pending investigations which had a potential for prosecution. Furthermore, events disclosed that limited resources did not provide the expertise needed to develop quality intelligence on some of the major targets.

The investigation and research, involving hundreds of man-hours, led to the compilation of volumes of material. The results are summarized as follows:

The fences:

Over 200 fences were identified in Albuquerque. About 90% of these fences can be categorized as 'amateurs' who operate small businesses for their primary income. They buy small items, and purchases are made as opportunity arises. The remaining 10% are the 'professionals' whom fencing is a major source of income and is practiced with continuity.

THE FENCING CYCLE



This chart and contents of this report should not be interpreted as a criticism of the majority of firms and individuals who operate ethically and legally.

Practically all of the professionals have a legitimate business cover, such as a used-car lot; pawn shop; service station; Indian jewelry trading post; grocery; restaurant; bar or junk yard. They can handle items in the hundred-to-thousand-dollar bracket. This is not to minimize the work of the amateurs who handle smaller items; they do so in substantial volume.

A vast number of fences are well-known as such. There are fences who hold positions of stature in the business community, or in their professions. With very few exceptions, although their fencing is well-known, they have not been convicted on charges of receiving stolen property.

#### The market:

This is a mass-production and mass-sales society. The availability of property for theft is immeasurable. The access to residences, commercial establishments and automobiles continues to be easy, despite the efforts of law enforcement and civic organizations to develop crime-prevention awareness. Items currently receiving priority attention from thieves and fences are: jewelry, clothing, television sets, business machines, automobiles, firearms, tools and various types of mechanical equipment. The professional fences know the market, and what the market wants is quickly made known to the burglar\* complex. It is not unusual for a fence to communicate his specific need to a burglar, and even to pinpoint the target for the burglar.

To estimate the number of burglars in Albuquerque is an unrealistic task. The hardened professionals with extensive criminal records are well-known to the police but to cover their activities around-the-clock would require an army of officers. Their number is continuously increased from the ranks of juveniles. In addition, Albuquerque, because of its location, receives a large number of transient burglars traveling through on the arterial highways.

\* The term 'burglar' is used throughout this section, but 'robber' and 'larcenist' are included in this general use of the term.

In analyzing the burglar pool, we see a wide spread of types. There is a range from the neophyte juvenile, involved in petty thefts; to the more seasoned operator, acting on opportunity; and on to the professional, who is a keen student of the market and has his fencing connections and who usually has a criminal record. The professional is responsible for many of the unsolved burglaries. There is the example of a 22-year old who had been committing burglaries since he was 16. At the time of his last apprehension, it was estimated that he, a heroin addict, had stolen \$150,000 to \$200,000 worth of property in one year.

The successful fences develop their own string of burglars. They are screened and tested. They can be readily dropped by the fence. Testimony of a burglar against a fence is of limited value when it merely consists of the burglar's word against that of the fence. Drug addiction gives the fence a valuable advantage; he has little difficulty manipulating an addict who must steal to satisfy his habit. The addiction of a burglar also seriously damages his credibility in testimony against a fence.

The Indian jewelry market (including jewelry which is not Indian-made but is represented as such) probably presents the greatest difficulty to law enforcement. The number of people involved includes the hundreds of businesses engaged in the purchase and sale of Indian jewelry, and the thousands of people who, over the years, have accumulated private collections. Many of these collections are valued at thousands of dollars. Sales are made every day from person to person, then accredited as jewelry business operators. The soaring demand and increasing value of Indian jewelry on the world market is providing a potential bonanza for the thief and the fence. What is stolen in Albuquerque today can be on a shelf in Kalamazoo or in New York City tomorrow. During 1973, it was estimated that \$1 million worth of Indian jewelry was stolen in New Mexico.

Some fences buy stolen goods from outside the state. This may be a shipment of men's suits, stolen in the Mid-West or East. There are

merchants who do not hesitate to buy and put the merchandise on the rack and dispose of it at a 'special sale'.

#### Sales outlets:

The fence's legitimate business may provide a good outlet if he is satisfied that the police cannot identify the item as stolen.

Large quantities of goods may be concealed, or they may be disposed of by transporting them to another city, state or country. This is a relatively easy operation.

Television sets, stereo equipment and tools have a ready market in Albuquerque, particularly if it is a small 'package'. It is not difficult to find buyers, including other fences. Communication within this market is good.

Sales outlets for Indian jewelry flourish throughout the country, and abroad. The fence can readily dispose of stolen jewelry to the 'tourists' who arrive and depart from Albuquerque every day. The fence, or one of his cohorts, can easily take a package to Los Angeles, Chicago or New York City, either by airplane or by automobile. One trick that hampers law enforcement is the reworking of the Indian jewelry to prevent identification, even by the owner.

The fence's disposal of firearms has given law enforcement a serious challenge. The traffic is heavy. Guns are stolen from homes and businesses in the state and more come into the state from out-of-state rip-offs. A good many weapons move across the Mexican border, according to good evidence. One disturbing concern is the possibility that firearms may be channeled to violence-prone terrorists. The intelligence gathered so far is fragmentary and is insufficient for adequate assessment of the threat within New Mexico. The magnitude of the problem has resulted in an intensified federal program to identify and prosecute persons using or dealing in stolen firearms.

There is substantial evidence that some fences exchange stolen goods for drugs. This type of fencing must be well organized, for the fence is vulnerable both as a receiver of stolen property and as a dealer in drugs.

There are risks, but there are huge profits. Such targets will require a task-force or team approach for the development of prosecutable cases.

#### The law:

A police department can spend months developing evidence on the operations of a fence. Convincing as the results may be to the police and to the prosecutor, the jury must be convinced that the fence knew the specific property was stolen at the time he received it. This must be proved beyond a doubt and, as a result, convictions of fences are low in number. From the standpoint of time and the deployment of manpower, the burden placed upon law enforcement in a relatively simple case is punishing.

The fence is usually capable of presenting a respectable appearance before a jury. The key witness for the prosecution is often the burglar, who has a criminal record and is a vulnerable target for the defense attorney. In the trial of a professional fence, it is not necessary to corroborate the testimony of the thief by showing that the fence knew that the property was stolen; but, if a prosecutor hopes to win a case, he must go beyond the requirements of the law and present corroboration for the benefit of the jurors.

Because of the difficulty of proving that an accused knew property was stolen at the time he received it, statutes on receiving stolen property have traditionally contained presumptions which aided the prosecutor in proving his case. Generally, in law, a presumption allows the person in whose favor it works to prove a necessary fact by proving another fact, or set of facts, from which the necessary fact is presumed. For example, before a person's estate may be distributed to his heirs, a necessary fact to be proven is that the person is dead. Usually this is easy to show, but not in the case where the person simply disappears. Therefore, the law allows that if an heir can prove facts showing that the person has disappeared and has not been seen or heard from by relatives or friends for a period of seven years, the person is presumed dead. Once a party has proven the facts which give rise to the presumed fact, the presumed fact will prevail unless an opposing party produces evidence to

rebut or disprove the presumption. In the above example, a person opposing the distribution of the estate would have to show that the person was alive.

In New Mexico, the statute on receiving stolen property contained, at one time, language that "the requisite knowledge or belief that property has been stolen is presumed in the case of an individual or dealer who: (1) is found in possession or control of property stolen from two or more persons on separate occasions; or (2) acquired stolen property for a consideration which the individual or dealer knows is far below the property's reasonable value. A dealer shall be presumed to know the fair market value of the property in which he deals."

Thus, if the prosecutor could prove the facts described in (1) or (2) above, an element of the crime that the accused must know the property was stolen at the time he received it (a necessary fact) is presumed.

The objection leveled at this statutory presumption is that once the presumption is established, the burden falls on the accused to rebut it. This, it is argued, conflicts with the principle that the burden is on the state, in a criminal case, to prove the accused guilty and he has no obligation to prove his innocence.

The presumptions that were previously contained in the receiving of stolen property statute were ruled unconstitutional by a Bernalillo County District Court Judge in the case of State vs. Elam.

Subsequently, the Legislature deleted the presumption from the statute.

One of the difficulties during the time these statutory presumptions were falling in disfavor in New Mexico was the lack of a definitive opinion from the United States Supreme Court concerning these presumptions. In 1973, the Supreme Court of the United States ruled that it was not unconstitutional for a jury to be told by the judge that they could infer the fact that the accused knew the property was stolen from the fact that the accused was found in recent, unexplained possession of stolen property.\*

\* Barnes v. United States, 412 U.S. 847 (1973)

Certain types of evidence are relevant and material on the issue of whether the accused had knowledge or reason to believe that the property he acquired had been stolen. Thus, the Commission recommends that Section 40A-16-11 NMSA 1953 be amended by providing another subsection to the effect:

"Without limiting the introduction of evidence, the following type of evidence is deemed material and relevant and is admissible at a trial to prove a requisite knowledge or belief that the property has been stolen:

1. that the accused was found in possession or control of property stolen from another person on another occasion;
2. that the accused acquired the property at a consideration far below the fair market value; and
3. that the accused has the reputation in the community in which he resides for being a person who will buy, receive and acquire stolen property."

The preceding amendment would give the trier-of-fact the relevant and pertinent information to find the truth in the matter. By making the above provisions evidence, the jury would be free to put whatever weight on that evidence they deemed proper, and the constitutional issue of 'presumption' would be eliminated.

#### Resources to combat fencing:

Police departments in the state have made progress in crime prevention programs (i.e., operation-identification and target-hardening). These efforts influence the availability of stolen goods to the fence. So far, this has not seriously dented the market for the fence.

Law enforcement in New Mexico has not reached the level where a task force or team can be devoted to a major fencing target for a prolonged period. No single agency has the manpower to tackle key targets when this will require the application of sophisticated techniques.

The state intelligence system is not perfected to the point that provides a reasonably accurate identification or assessment of important fences. However, progress has been made in some agencies, particularly the Albuquerque Police Department.

The State Police may take part in a fencing investigation, however,

the major fencing operations are usually within the larger cities and the State Police investigative activity will, therefore, be minimal.

When federal agencies develop cases under their jurisdiction, results are very useful. However, policy restrictions limit the types of cases accepted by federal agencies. Federal agencies are also limited by the availability of personnel resources.

The average prosecutor shies away from a case of receiving stolen property unless it is conclusively supported with iron-clad evidence. As in other criminal cases, plea bargaining enters the picture.

Concerned citizens, including civic organizations and the news media, have been helpful. Unfortunately, there are not enough who are engaged in the battle. Where many citizens have made contributions at much personal sacrifice, there are also those, operating businesses or engaged in the professions, who participate in the acquisition of stolen property, knowing full well that there is something 'wrong' with the transaction. There is a recent example of an ostensibly reputable professional who not only purchased quantities of stolen property, but further served as a conduit to his colleagues.

Insurance companies could be more useful if they used their experience and knowledge collectively; but, apparently, the property losses have not been impressive enough to warrant any joint effort.

Communication and exchange of intelligence on fencing among the neighboring states is of a spasmodic nature and is not performed with continuity.

#### Organized fencing:

The Commission has not established the existence of any one organization, syndicate or group which is dominating fencing operations in the state. The evidence collected discloses that many are involved and individually are prospering. During the past year, there have not been examples of major rip-offs, i.e., truck loads, box-car loads, or the clearing out of a warehouse. This is the type of activity associated with a major gang or organization of burglars or fences.

The foregoing portrays a level which may influence one to disregard the significance of fencing in New Mexico and particularly in Albuquerque. However, we do have that level of fencing which has organizational features and this, with its parasitic milking of the local economy, continues to present a major task for law enforcement.

The leading fences have these features:

1. well established business covers;
2. connection or alliance with burglars who can be readily used and disposed of;
3. penetrations or connections in the criminal justice system;
4. availability of legal expertise;
5. continuity in conducting illegal transactions;
6. excellent networks of sources in the business community;
7. expertise in concealing funds and records;
8. good systems for utilizing cut-outs and thus insulating the fence from exposure to prosecution; and
9. contacts outside of the state.

In essence, the Albuquerque fencing operation has the elements of organized crime; it does not reflect the power structure of the syndicated activity of a New York City or Chicago fence, but it inflicts heavy damage on the overall welfare of the community.

GAMBLING -

American society continues to vacillate in its attitude toward gambling and the New Mexico attitude does not vary from the national norm. Pressures against the activity have their highs and lows, and law enforcement generally reacts accordingly. We do not have the formula to combat the continued activity of bettors who blatantly ignore the fact that the power of organized crime in the United States has been largely founded on illegal gambling revenue. It is appalling to observe the amount of money that emanates from otherwise reputable, well-heeled citizens who feed the coffers of bookmakers.

Gambling (excluding parimutuel betting on horseracing) clandestinely continues within the state in the form of card and dice games, with much traffic in bookmaking during the football season. Intelligence collected has not disclosed the existence of any dominant single power structure; on the contrary, the activity continues to be fragmented. However, gambling is extensive enough to warrant continued monitoring to prevent the emergence of major problems. It has been said that the market in New Mexico is not yet rich enough to attract the big-time operators. Yet, for New Mexico, there have been some significant developments:

1. Albuquerque, because of its size, continues to be the hub of most activity. However, within this last year, one of the cities in the 15,000 population category has been the scene of high-stake poker games that victimized some of the more prosperous citizens in the community to the tune of approximately \$1,000,000, over a period of several months.

2. Although there have been demands for virtual elimination of all forms of gambling, action taken by law enforcement, particularly by the Albuquerque Police Department, the State Police and the FBI, have been significant deterrents to the outbreak of widespread illegal gambling. There has been containment, but there has not been elimination.

3. Card and dice games of the high-stake category (a heavy

individual loss is frequently \$20,000 to \$50,000) can be rapidly organized and arrangements made to move from location to location. Motels are popular locales, as are the back rooms of some establishments. The professionals do a very effective job of arranging necessary security, such as guards who are equipped to get rough if necessary.

4. Bookmaking in the state intensifies during the football season, a characteristic which is nationwide. As everywhere, the citizen bets on football games, from the \$1.00 bettor in the widespread pool-selling wagers to the individual who deals with a bookie in varying amounts from twenty to thousands of dollars.

There are the 'handbook' operators who may operate a small business, such as a bar, restaurant or barber shop. It is not feasible to estimate the number of such operators, some of whom will probably be with us forever.

In the 'major' category, there are probably 30 to 40 bookmakers in the state. The label of 'major' applies to grading within New Mexico, but does not fit the scale of big operators in other parts of the country. The 'major' in Albuquerque, or a location such as Hobbs, may directly handle several clients of his own and serve as a lay-off for a number of low-level bookies. Such a 'major' occasionally may need protection to cover potential losses and it is important that he have a channel for a lay-off in cities such as Los Angeles, Dallas or Las Vegas, Nevada. In addition, he must have a contact for the 'line', plus any other intelligence useful to him. All of this is needed to give him a 'balanced book'.

The Albuquerque 'major' may net \$25,000 to \$75,000 a year. He does not dominate the traffic, but shares much of the volume with others in a similar category. The estimate of gambling activity, predicated on information from several reliable sources, does not show the pattern of a prevailing organization, a city-wide or state-wide structure managed by any one individual or one group. We do have a market which has an excellent potential for expansion.



Action taken by law enforcement, including the Commission, during the past year did create substantial disorder in bookmaking circles which has necessitated some regrouping, allegedly still in progress.

5. The public is generally apathetic, despite the many complaints that have been voiced against illegal gambling. Prominent citizens continue to be sources of capital and they usually rationalize that society is not being adversely affected.

6. It is generally accepted that gambling (dice and card games) in the rooms of private clubs is a way of life and should not be a law enforcement target.

7. Intelligence fails to show alarming ties between bookmaking in New Mexico and out-of-state gambling centers. Nevertheless, the Commission believes much is being missed because of heavy traffic of telephonic communications and personal meetings which can't be covered with existing resources.

8. Based on current assessments, it is assumed that the FBI is effectively covering the activities of 'major' targets. These are grey areas because the FBI, by statute and policy, can only move against targets of specific dimensions.

9. With its limited resources, it is strategically and economically unsound for law enforcement to maintain coverage on all known gamblers. Because of other priorities more closely related to protection of persons and property, coverage must be exercised on a very selective basis.

10. The threat of an influx of slot machines surfaces regularly. Numerous operators of bars and related establishments are still convinced that the machines will be legalized. A substantial number of machines have been confiscated. Allegations continue to be made regarding caches of slot machines being hidden in various locations. Police pressure has been applied to the extent that it has also hit the operators of 'electronic gambling machines'; the operators strongly contest the charges of the illegality of operating such machines. The controversial electronic machines continue to increase in number.

11. Equipment such as blackjack, roulette and crap tables are available by dealing with the 'right' sources. Police regularly make

arrests, but it is virtually impossible to prevent entry of such items into the state. Much of this gets to private clubs or 'charitable organizations'. The appearance of loaded dice and marked cards is very common, even in so-called friendly games.

12. It is generally accepted that if illegal gambling becomes a major activity, it can be assumed that corruption of public officials or employees is an attendant ingredient. There is good reason to believe that it has taken place; as an example there has been evidence of 'leaks' prior to law enforcement raids. This is a continuing threat to any law enforcement agency.

13. There have been feuds between 'groups' or 'alliances' involved in gambling activity resulting in damage to property and threats of physical harm. There is an available 'talent pool' of muscle-men. This introduces the element of potential extortion. The evidence available does not support an assessment that it has reached an alarming scale.

14. Out-of-state gamblers do frequent New Mexico; many of them have criminal records. Through contacts in the state, they can arrange card and dice games.

15. The positions taken by this year's gubernatorial candidates have tended to neutralize, for the time being, the efforts of those individuals pushing for legislation to legalize gambling.

16. The gambling junkets to Las Vegas, Nevada continue. Chartered planes which often initiate a flight in Chicago will stop in Denver and then Albuquerque to take care of the high-rollers or would-be high-rollers.

17. The subject of the introduction of greyhound racing continues to pop-up but at this stage it can be classed as falling into the rumor category.

18. Numerous reports have been received that Las Vegas, Nevada money has come into the state to finance support of legalized gambling. The personalities mentioned in these reports have backgrounds warranting interest, but there has not been specific evidence of the arrival or disposition of such money. It should be noted that unsubstantiated allegations are received that Las Vegas, Nevada money is received to counter New Mexico moves to legalize gambling. This is supported by contention that Las Vegas does not want competition.

19. The number of professional gamblers in the state, the ever-present gambling capital from prosperous gambling citizens, coupled with the transient or visiting professionals will provide an atmosphere which will sustain a continuing target for law enforcement, including the Commission. There is a clear-cut responsibility to measure this activity on a regular basis so that provisions can be taken to prevent syndicated control with its inherent damage to society.

20. The Commission did not follow the gambling as a top priority for this past year. It is believed that the foregoing assessment supports the position taken.

21. No one agency is currently capable of following and assessing gambling activity throughout the state and of promoting the necessary corrective action. A coordinated effort by local, state and federal agencies is the desirable goal. Such coordination has not reached a satisfactory level. Those joint actions which have materialized have been very productive. Probably the most significant deterrent to achieving the sought-for coordination is the element of corruption which may not only infect law enforcement but also other branches of overall government structure.

22. Since the electronic surveillance statute does not include gambling, this will continue as a severe deficiency to law enforcement.

23. The 'advisory letters' from the state's Attorney General pertaining to gambling cases certainly did not contribute to the efforts of law enforcement to curb gambling. The general feeling within law enforcement was that the communications were obstructive in nature.

24. The apathy of the public toward gambling has affected law enforcement, prosecution and the courts.

25. Most of the professional gamblers are involved in other criminal activity, that is, drug traffic, prostitution, fencing, and so on.

26. Intelligence has not disclosed the emergence of numbers games (lottery-based games). So far, the state, and particularly Albuquerque, has not provided the market, possibly because we yet do not

have that broad industrial base which has been, historically, the breeding-ground for a flourishing racket.

27. Interest in establishing gambling in resort enterprises on Indian reservations continues to survive, but there is no evidence of the implementation of any alarming action. It appears that moves in this direction very likely will be associated with the progress of legalized gambling in the state.

HORSERACING

The 1973 report by the Governor's Organized Crime Prevention Commission described the problem areas in the New Mexico horseracing industry, namely: ownership; concessions; and the Racing Commission's capabilities. The problems have not been eliminated and it is the estimate of this Commission that they will persist under the state's present control and monitoring policies and procedures. Because of the well-established history of organized crime infiltration of horseracing throughout the country, this Commission has continued to follow developments warranting attention.

The industry continues to be a major one, as may be seen by the following:

1973 Racetrack	Attendance	Total Handle	Number of Race Days
Santa Fe Downs	180,320	\$ 13,173,521	59
La Mesa Park	107,716	7,645,314	55
State Fair	139,976	8,993,239	14
Sunland Park		11,266,202	62
Spring -	168,081	5,825,964	29
Fall -	83,512		
Ruidoso Downs	328,102	17,610,086	64
 1974			
Santa Fe Downs		13,653,658	63
*Spring -	169,453	---	22
Fall -	---	---	---
La Mesa Park	108,890	9,065,872	54
State Fair	140,652	9,514,354	16
Sunland Park		12,400,519	60
*Spring -	182,197	---	29
Fall -	---	---	---
Ruidoso Downs	329,300	20,004,876	63

\* Figures for the fall season are not yet available.

The 1973 report of this Commission questioned the effectiveness of

the Racing Commission as it is presently structured. The Crime Commission does not consider itself an authority in the management and operation of racetracks. However, it does feel obligated to address itself to very obvious deficiencies and unsatisfactory situations which enhance the opportunities of organized crime to infect the industry.

It is to be expected that Racing Commissioners will continue to be political appointees. The commission has only periodic meetings; it does not have an investigative staff; and it uses legal counsel from the Attorney General's office on a part-time basis. This does not provide the needed control. Investigation in the horseracing field can be extensive, tedious and costly, particularly when there is a need to closely examine fiscal and financial transactions. The latitude afforded to track owners for manipulation of funds usually requires a team of expert investigators for proper evaluation, and the Racing Commission does not have such investigators.

The Organized Crime Prevention Commission has assisted the Racing Commission in certain matters and will continue to do so. There is, however, a need for effecting a policy agreement about procedures, so that it will be clearly understood under what circumstances this Commission can be of assistance. Agreed-to guidelines, relative to this Commission's participation in Racing Commission hearings, are most necessary. Disclosure of intelligence by this Commission is restricted by law, yet it is recognized that this Commission also has a responsibility to assist other agencies.

Although it is not a primary responsibility of this Commission, it has been on the alert for potential legislative changes which might improve horseracing controls. The Commission recommends an amendment to the Horseracing Act which would prohibit issuing a license to an individual who has been convicted of a felony under the laws of any jurisdiction, not just this state's jurisdiction. At the present time, the restriction applies only to the conviction of a felony under the laws of New Mexico. This Commission has also submitted a proposal for improving the informational value of veterinarian applications.

Sunland Park - Ruidoso Downs:

Volumes could be written on events leading to the present ownership of these tracks by the Alessios, whose activities over the years have made them controversial personalities. The data accumulated does not include results of informal meetings or discussions of key personalities; these talks probably will never be accurately documented. The Crime Commission has endeavored to examine developments objectively as possible in an effort to place problem areas in a proper perspective. It is recognized that the entire history of the two tracks is important. However, this Commission is primarily addressing itself to current problems which are associated with the Alessio group.

A brief historical resume discloses Fortuna Corporation was incorporated in New Mexico in 1957. Fortuna built and operated Sunland Park. Michael J. Coen, to be referred to later, established Sunland Development Corporation in 1969, and acquired controlling interest in Fortuna. In 1970, Fortuna acquired control of Newco Industries, Inc., which, at that time, had controlling stock in Ruidoso Downs, Inc. Kodiak moved into the picture in 1972. At the hearing on July 13, 1972, pertaining to its plans, Kodiak informed the Racing Commission of its intention to buy control of Fortuna. The Racing Commission denied licensure to operate the tracks, pending the review of criminal charges against Dominic and Anthony Alessio in California. Nevertheless, the Alessio group went into action. Dominic and Anthony Alessio sold their shares to Alvin Rosa, son-in-law of John Alessio. Rosa, now in control of Kodiak, purchased, through Kodiak, control of Fortuna. Kodiak representatives appeared at a Racing Commission hearing on August 7, 1972, now in control of Fortuna, but also with a new organization. In the period from July 13, 1972, to August 7, 1972, Dominic and Anthony Alessio had sold their shares to Alvin Rosa. Nine-hundred (900) of the one thousand (1,000) shares were sold to Alvin Rosa at \$10 a share with the agreement that Dominic and Anthony could repurchase at the same price. On the record, Alvin Rosa was Kodiak at the hearing of August 7, 1972. Based on available records, the shuffle that took place between July 13, 1972 and August 7, 1972, was executed without any official

consultation with the Racing Commission. There is no record of any type of meeting or hearing in that interim. At the hearing of August 7, 1972, Kodiak, under Alvin Rosa, received a license to operate the two tracks and racing dates were approved. At the aforementioned hearing, it was disclosed that the sale of shares by Anthony and Dominic Alessio included the option to repurchase the shares at the same price. The option was to expire July 26, 1975. It was understood that the Racing Commission would be consulted before the option was exercised.

At this point, it is most important to reflect on the fast-moving events of July, 1972. The Kodiak blitz overwhelmed the extremely limited New Mexico resources, including the Racing Commission. In evaluating Kodiak in July, 1972, it is essential to bear in mind that Kodiak's financial status hinged on a relationship with C. Arnholt Smith's U. S. National Bank in San Diego (the bank that failed in the fall of 1973). July, 1972, was a period when the state of New Mexico badly needed vital information to protect its interests. It was not acquired.

At the Racing Commission hearing on August 7, 1972, Alvin Rosa stated that the purchase of Fortuna stock by Kodiak, then controlled by Rosa, was solely his own decision and that Dominic and Anthony Alessio were not involved in the decision-making. How Alvin Rosa handled the obviously necessary negotiations with the U. S. National Bank without the involvement of Dominic and Anthony Alessio is not clear.

Dominic Alessio submitted his Secondary License Application to the Racing Commission on October 4, 1973. It was apparent that his intention was to again become officially involved in New Mexico horseracing. Referring to the minutes of the Racing Commission hearing on February 1, 1974, and specifically to Dominic's application, Tom Dunigan of the Attorney General's office reported that "the charge against Dominic Alessio constituted a felony under federal law, but that he was eligible to be licensed under his own right unless convicted of a felony under State law and that he had been acquitted of the bribery charge, therefore, the act of Dominic Alessio did not constitute a felony in New Mexico".

Although the minutes do not so disclose, it is assumed that the application was officially approved.

Dominic and Anthony Alessio proceeded to exercise their option to repurchase shares of stock sold to Alvin Rosa in 1972. The board of directors of Kodiak met on May 19, 1974, and, upon the consummation of the repurchase of shares from Alvin Rosa, Dominic Alessio became president, Anthony Alessio vice president, and Rosa became the general manager of the two tracks. There is no record of any consultation with the Racing Commission prior to the above action. The Alessios were moving with effective aggressiveness and New Mexico again was on the defensive, reacting to pressures beyond the state's capabilities to effect a needed measure of control.

Although it had not been listed on the agenda, the matter of the directorship of Kodiak Industries was brought up at the Racing Commission hearing of August 3, 1974. It was brought out that Dominic and Anthony Alessio originally had been issued Secondary License "on the basis that they had options to buy stock in Kodiak Industries". The Racing Commission recognized that Anthony and Dominic Alessio now were not only stockholders, but also on the board of directors. The Racing Commission finally voted to accept the license application of Dominic and Anthony Alessio. As of August 3, 1974, the Alessios had completed the blitz, an impressive performance in every respect.

#### The Alessios:

John Alessio is the patriarch of the closely-knit Alessio family whose wide-spread business activities in California and Mexico span many years. The key members of the family are:

John Sam Alessio,

his brothers: Anthony, Angelo, Russell, Louis, Joseph and F.

his son: Dominic John Alessio;

his daughter: Rose Marie Rosa; and

his son-in-law: Alvin Garcia Rosa.

John is a remarkable individual who has demonstrated unusual skill in the organization and operation of effective and profitable business

ventures. He has been a very influential personality, equipped to communicate with the highest officials in government and in the business community. Included has been an exceptional capability to function in political circles. He has been the recipient of numerous awards: 'Book of Golden Deeds' by the Exchange Club; 'Man of the Year in Racing for 1957' by the Jockey Guild of America; a citation in 1962 for 'Furthering the International Relations Between Mexico and the United States'; 'Mr. San Diego' in 1964; and an 'Honorary Doctorate of Law' from the Roman Catholic University of San Diego.

#### - reported violations of law:

John Alessio was arrested in Tijuana, Mexico, in 1948 for allegedly arranging an overdraft of approximately \$4,000,000 from the Banco del Pacifico, Tijuana, Mexico, in an effort to save the financially unsound Tecate Brewing Company. He spent time in jail in Tijuana, but charges in Mexico were dismissed.

In 1948, John Alessio, Eloy Martinez and Alberto Victor Aldrete were indicted in Baja, California, in connection with an alleged fraud perpetrated on the Banco del Pacifico, Bank of America, and the Pacific Vegetable Oil Company of San Francisco. The U.S. ramification of this case led to the arrest of John Alessio in San Francisco on July 27, 1949, charged with "conspiracy - grand theft of \$1,000,000". The charges against John Alessio were dismissed February 7, 1950, by Pat Brown, the District Attorney in San Francisco, and later Governor of California. During the course of the investigation, the name of C. Arnholt Smith was significantly introduced but his role was not specifically identified. It was reported that those indicted were to make restitution in the amount of \$700,000.

Russell Alessio was arrested in June, 1967, with two other individuals for failure to purchase the \$50.00 Occupational Tax Stamp required for wagering. This stamp was required by the federal government for those engaged in the business of accepting wagers (usually connected with bookmaking and numbers). He was fined \$10,000 and a three-year sentence was suspended

On April 8, 1970, John Alessio, Angelo Alessio, Russell Alessio, Anthony Alessio and Dominic Alessio were indicted in Los Angeles on 31 counts of conspiracy, fraud and income tax evasion (related to the flow of Mexican income into the United States). John Alessio was sentenced to three years in the federal penitentiary and fined \$20,000. Angelo Alessio was sentenced to one year and fined \$20,000. Charges against Russell, Anthony and Dominic were dismissed. All of this took place after considerable plea bargaining.

On December 8, 1972, Dominic, Angelo and Anthony Alessio were arrested in San Diego in answer to a Federal Grand Jury indictment on charges of alleged bribes given to officials of the Lompoc Prison where John was incarcerated.

On July 8, 1974, John Alessio pleaded guilty to violation of Title 18, Section 201(F), the lesser of charges pertaining "to the giving of gratuities". He was fined \$5,000.

Angelo Alessio pleaded guilty to the same charge and was fined \$2,500.

Dominic Alessio was convicted in U. S. District Court May 30, 1973, on a single count of "giving gratuities" to federal prison officials. He was acquitted of specific bribery charges. On July 12, 1973, he was sentenced to serve six months and was fined \$10,000. A two-year prison sentence was suspended and he was placed on probation for three years. He was released on a \$10,000 appeal bond.

In looking at the court action of 1974, one should not discount the possible ties with the pending charges against C. Arnholt Smith. It is not known but it is assumed that the Alessios could be testifying in the major tax evasion trial of Smith.

The Alessios and C. Arnholt Smith:

The fabulous story of the rise and fall of the empire built by

Conrad Arnholt Smith, the San Diego financier, industrialist and sportsman, has been national news. His fate is in the hands of federal authorities.

One of his giant holdings was the U. S. National Bank in San Diego, from which Kodiak Industries, Inc. borrowed over \$4,000,000. In the processing of the ruins of Smith's financial empire, many of the loans from the U. S. National Bank fell under the receivership of the Federal Deposit Insurance Corporation (FDIC). Negotiations for settlement of the loans are still in progress between the FDIC and Kodiak. The resulting conditions will have a most significant bearing on the future of Ruidoso Downs and Sunland Park.

The close relationship between Smith and the Alessios goes back many years. It was Smith who befriended John Alessio in 1929 and assisted him in embarking on a career in the banking field. All of the business transactions involving the Alessios and Smith probably will never be revealed.

One of Smith's holdings was Westgate-California Corporation. John Alessio was one of several individuals who was involved with Smith in the creation of this large corporation.

In order not to neglect other important personalities, it must be mentioned that Michael J. Coen was one of those involved in the development of Westgate. Preliminary findings after the U. S. National Bank collapse indicated that Coen had been a heavy borrower from U. S. National. Coen, it is to be noted, was responsible for the creation of Sunland Development Corporation which acquired control of Fortuna stock in 1969. Coen's interests in New Mexico have not been restricted to horseracing. Coen was the president of the First California Company, a national brokerage firm licensed to operate in New Mexico and which, at one point, allegedly handled some investments of the Public Employees Retirement Association.

In March of 1972, a group of minority stockholders of Westgate-California Corporation filed a class action suit directed against 21 individuals and firms. Included were C. Arnholt Smith, John Alessio and Coen. The suit indicated that a business relationship existed among Alessio, C. Arnholt Smith and Coen.

It is logical to stress the significance of Smith when evaluating the status of the two New Mexico racetracks. His U. S. National Bank served as a source for the flow of the critical funds.

#### The Alessios and the Del Mar Racetrack:

The Alessio plans to buy the famous Del Mar Racetrack also provide useful data for anyone interested in the welfare of New Mexico. John Alessio first failed to buy the track from Clint Murchison and Sid Richardson, well-known wealthy Texas oilmen. California horsemen successfully applied enough pressure to block the deal. In 1966, John, with others, established Del Mar Associates, Inc., and initiated another move to buy the tracks. Included among the prominent shareholders of Del Mar Associates were the wife and daughter of C. Arnholt Smith. Again, a group of track operators and horsebreeders organized to counter the Alessio plan, allegedly because of John Alessio's gambling activities. Alessio had some of the most powerful political figures in California supporting him, including the then Governor Pat Brown. Alessio supporters contended that John made book in Mexico where it was legal and that the law in California did not exclude 'legal gamblers'. Del Mar Associates nevertheless failed in its effort to acquire ownership of the track. As indicated, the Alessio involvement in the management of the Caliente Track in Mexico, also known as the Hipodromo de Tijuana, coupled with the associated bookmaking of Caliente's Foreign Book, were factors which influenced the opposition.

#### The Alessios and Mexico Operations:

Alessio operations in Caliente distinctly presented a problem for the family during the 1960's. In 1966, concerned leaders of horseracing in the United States questioned the propriety of the Alessios being associated with racing because of identification with bookmaking in Caliente.

In 1971, a source who was in a position to be knowledgeable reported that income from the Caliente Racetrack was diverted and unreported. It was a skimming operation. The skim not only came from betting sources, but also from the operations of the Foreign Book which covered wagers outside of Caliente and included tracks in the United States. The same source highlighted the skim-take from '5-10' operations at Caliente. This is basically a parimutuel pool based on persons selecting winners in six races and the net pool is divided between those picking the most winners and those picking the second-most winners in six races. The skim was based on understating the gross pool or by passing fictitious tickets.

In May 1972, all members of the Alessio family reportedly were separated from the management of the Caliente Racetrack. The nature and extent of the Alessio's financial interest in the track, including the Foreign Book, is unknown at this time.

John Alessio, in the past, has been involved in the operation of a racetrack in Juarez, Mexico. There are allegations that his investments include an interest in bookmaking in the same city. Bookmaking in Mexico is legal. Investigation has not satisfactorily clarified Alessio's financial interests in Juarez. As brought out, Mexico is important to the Alessio family. In April 1974, John Alessio was quoted as saying that he serves on the boards of directors of three Mexico City banks.

#### Questions concerning financial transactions:

The intricate financial manipulations associated with Sunland Park and Ruidoso Downs can readily test professional investigative resources to the extreme. Difficult as it may be, appropriate answers to some questions would materially assist the Racing Commission and, more generally, the state of New Mexico.

In 1972, when Kodiak first offered to buy the shares of Sunland Development Corporation, it offered to pay \$2,587,100, or about 1.65 times the book value. This offer took place despite the fact that Sunland was clearly a loss-corporation, and one of its assets was also a loss-corporation. The remaining assets of Sunland at the time were not producing appreciable amounts of income. Although this is past history, the question is: Why

did the Alessios go into this venture under these circumstances?

How can it be accepted that Alvin Rosa operated the two tracks from 1972 to 1974 without serious consultation with John Alessio? Rosa's residence is valued at \$1,000,000. His background does not show that he held jobs that paid unusually high salaries. One must consider that John Alessio was a most influential figure in Rosa's life, including the period 1972-1974.

It is strongly indicated that the prosperity of the Alessio family has been very closely associated with C. Arnholt Smith. We know that Smith and Michael Coen have been closely connected. We know that the U.S. National Bank, which went bankrupt, financed Kodiak. We know that Coen's First California Company handled significant stock transactions. The questions raised are: Does Michael Coen really own the tracks? Do Coen and the Alessios own the tracks? Was it C. Arnholt Smith who really owned the tracks?

We do not know how much Sunland Development cost Coen and his associates. We do not know what profit was made when the corporation was sold for over a million dollars above book value.

We do know that when the U.S. National Bank went bankrupt, Kodiak owed the bank over \$4 million. Who is paying the interest on these loans? What effect do these outstanding loans have on the future of the tracks?

We do not know what cash flow Kodiak has to pay-off their liabilities, or when they can do so. There could be income in the form of dividends declared by Fortuna, but it should be noted only 51% of dividends would go to Kodiak.

It is possible that the Federal Deposit Insurance Corporation, which holds the Kodiak loans from the U.S. National Bank in receivership, is effecting arrangements for payment of interest and loans under conditions which are favorable to the interests of New Mexico.

#### Racetrack concessions:

The food and beverage concessions at New Mexico racetracks are handled on a contract basis. The contractor must be approved by the

Alcoholic Beverage Control Department (ABC) because of the need for a liquor license. A principal condition imposed by ABC is that the contractor must not have been convicted of a felony. In addition, the contractor and his employees must receive licenses from the Racing Commission. The extent of the examination by the Racing Commission usually depends upon the nature of the case. If a liquor license is approved, this does not necessarily preclude the Racing Commission from denying its license, although there are no known cases where this has occurred.

A concessionaire can play a most important role in the functioning and the stability of a racetrack, particularly if the concessionaire reaches a position where he has a financial interest in the track. This has happened in other parts of the United States. Since the area of concessions offers a potential avenue for organized crime penetration, this Commission has pursued research and investigation where there have been indications of vulnerability to such threats.

The history and status of concessions at Ruidoso Downs are worthy of review and analysis. In 1970, New Mexico Sportservices, Inc., held the concession contract at this track. This corporation was a subsidiary of Emprise Corporation of Buffalo, New York, which has been referred to as the world's largest concessionaire. Emprise has had a controversial history, primarily because of the associations maintained with known organized crime figures by Louis Jacobs, the founder of the firm. A new Emprise image was developed after Louis Jacob's death, in 1968, by his sons Jeremy and Max, who have vigorously denied organized crime connections.

The numerous allegations against Emprise were aired by the House Select Committee in 1973. During the course of these hearings, Emprise received strong support from important political and sports personalities. In the end, the efforts of the House Committee were summed up as follows:

"We find that Emprise Corporation, in the instances enumerated elsewhere in this report, has done business with individuals designated by public authority or authorities as organized



crime figures, and that Emprise Corporation knew, or should have known, at the time it did business with such persons that they had been designated by responsible public authority or authorities as organized crime figures or had the reputation of being a part of organized crime. The Committee has not had evidence, however, nor does it find that Emprise Corporation has itself been a part of organized crime. The only evidence the Committee has of criminal conduct on the part of Emprise is the conviction of Emprise Corporation on April 26, 1972 in the U. S. District Court for the Central District of California, of conspiring to use interstate transportation in aid of racketeering...."

The projection of a new image did have a setback. In April 1972, Emprise Corporation was found guilty of a felony in the federal court in Los Angeles. The conviction was predicated on a charge that Emprise had participated in the conspiracy to conceal financial investment in a Las Vegas, Nevada casino. Convicted with Emprise were Anthony Joseph Zerilli and Michael Santo Polizzi, reputed organized crime personalities from Detroit, Michigan.

That conviction, by law, prohibited Emprise or its subsidiaries from holding agent-lessee authority to serve alcoholic beverages in New Mexico. ABC notified the management of Ruidoso Downs in July 1973 that an agent-lessee for beverage service would have to be cleared by ABC within 60 days. In August 1973, a new corporation emerged in New Mexico, known as New Mexico Sportsystems, Inc. Jeremy and Max Jacobs held all of the voting stock in this new corporation, a 'family' holding, but not a subsidiary of Emprise Corporation. In July 1974, New Mexico Sportservices, Inc., assigned all rights, title and interest in the Ruidoso Downs concession to New Mexico Sportsystems. The ABC's interpretation of developments apparently left no reason to deny a license as an agent-lessee to New Mexico Sportsystems, Inc.

The background of the events leading to the conviction of Emprise in 1972 is important when evaluating present New Mexico interests. A group of businessmen planned to build a hotel and gaming casino in Las Vegas, Nevada. These businessmen ran into financial difficulties and, in looking about for financial backing, came in contact with two men from Detroit, Michigan, named Anthony Zerilli and Michael Santo Polizzi. These two men had the money to lend to the businessmen to complete the

casino and hotel. However, the Nevada Gaming Board refused to approve Zerilli and Polizzi as financial backers because of their involvement with Detroit organized crime. Thereafter, a plan was devised where they would still provide the money, but Emprise Corporation would appear to be the entity providing the financial backing. Emprise, because of its theretofore clean record, was acceptable to the Nevada Gaming Board. An integral part of the plan was to deceive the Nevada Gaming Board as to the actual source of funds for the financing of this casino. Emprise Corporation was to convince the Board that the money for the financing of the casino was coming from Emprise Corporation, and from a man named Phillip Troy, Max Jacob's father-in-law, when in fact the money was coming from Zerilli and Polizzi. This process is commonly known as 'laundering dirty money'; in this case it also permitted Zerilli and Polizzi to conceal their involvement from the Nevada Gaming Board. It allows organized crime to conceal money made in illegal enterprises, such as prostitution, gambling and loansharking by investing the money in seemingly legitimate enterprises. It was alleged that Emprise acted as the conduit for the transaction.

An examination of the structure of New Mexico Sportsystems, Inc. discloses that the president and treasurer is Jeremy Jacobs, who is the president of Emprise Corporation. The vice president-secretary is Jack Zander, who is vice president of Sportservices, Inc. in New York, an Emprise subsidiary. The stockholders of Sportsystems in New Mexico are, again, Jeremy Jacobs, president of Emprise; his brother Max Jacobs, vice president-secretary of Emprise; Lawrence Jacobs, another brother and vice president of Emprise; Lisan Gresser, a sister, and stockholder of Emprise; Jennifer Jacobs, another sister, and stockholder of Emprise; and Michelle Brailow, another sister, and stockholder of Emprise. A very obvious question is: Is New Mexico Sportsystems, Inc. truly independent from Emprise Corporation, or are our statutory controls being negated by a 'corporate veil'?

It is quite apparent that the Emprise label has been changed, but the officers of that company, by the use of a new corporate label, continue to operate a concession in New Mexico.

UNAUTHORIZED RECORDINGS - BOOTLEGGING OF TAPES -

New Mexico Laws 1974, Chapter 89, compiled as Sections 40A-16-41 through 40A-16-43 NMSA 1953, prohibits unauthorized duplication of recordings; the copyright or ownership rights of which are lawfully owned by commercial recording studios or artists. It is a new and controversial law. Allegations have been made that the law is a product of heavy lobbying on the part of the recording industry to serve its selfish interests, and that this industry is establishing entirely unreasonable prices on commercial tape recordings. The industry, in turn, has taken the position that it is composed of legitimate business establishments whose products are being pirated by bootleggers who are flooding the market with duplicated recordings at drastically lower prices. One manufacturer stated that it costs the legitimate business about \$6,000 to produce an original tape and the bootlegger can duplicate the same, with minimum equipment, for 50¢. A regular tape will sell for about \$7.00, while the bootlegged product sells from \$1.88 to \$2.99.

The music industry allegedly has lost approximately \$250 million a year from pirating. The enormous profits to be gained in business which offers the opportunity to bootleg is obviously attractive to the criminal element. Thirty-one states have enacted laws to counter this increasing activity.

In March of 1974, it was estimated that there were 20 to 25 companies in New Mexico pirating legitimate tapes. The Commission initiated steps to examine tape bootlegging in the state, fully realizing that it was moving into an area where enforcement of the new law had not yet been attempted. There was need to probe, define and test.

The execution of a search warrant at a tape factory in Albuquerque was highly revealing and useful. The results were:

1. a thriving, and perhaps the largest, bootleg tape factory in the state was put out of business in New Mexico;
2. other factories ceased doing business. This may be temporary. The attitude of law enforcement and the courts will be influ-

ential factors in the future;

3. because of an 'advisory letter' from the Attorney General of New Mexico, the District Attorney of the Second Judicial District refused to prosecute. The letter was interpreted by the defendant as clearing him to continue with his tape recording activity, and certainly posed a problem for a prosecutor who had to establish criminal intent before a jury;

4. although the evidentiary ingredients in this case were basically simple, the machinations that took place after the execution of the initial search warrant were most revealing as a portrayal of people-of-influence in action. It was necessary to obtain a State Supreme Court order to complete the execution of the search warrant. It can be assumed that if such action were taken in a relatively low-level case, the Commission could look forward to truly forceful opposition in future challenges of a more complicated nature in the organized crime field; and

5. as often occurs, the case produced valuable leads relating to indications of other criminal activity within and outside of New Mexico.

Although the Commission inflicted heavy damage on the bootlegging industry, there is one facet of the problem relatively untouched. Bootleg operators in other states are distributing their products to customers in New Mexico. It is impossible at this stage to estimate the volume, when one considers the vast number of retail outlets. Many retailers have no idea that they are receiving a bootlegged product. For New Mexico to combat this type of activity would require a heavy deployment of enforcement resources which are not available. If other states adopt statutes similar to New Mexico's, and enforce them, the problem will be drastically lessened.

PROSTITUTION AND PORNOGRAPHY -

Prostitution:

Prostitution flourishes throughout the state in a general atmosphere of public unconcern. What is overlooked by most citizens is that this activity continues to be closely associated with drug traffic, gambling and property crimes. Prostitutes and pimps circulate in those worlds.

In the absence of evidence that an organized group is dominating or controlling the business, the Commission has not looked at prostitution, per se, as a high-priority target. Numerous individuals who get involved in prostitution do communicate with each other for the solicitation and promotion of business, which suggests the elements of some organization. This has not been overlooked. Considerable intelligence is collected in cooperation with police departments. Much of this stems from operations of the ever-increasing number of massage parlors and escort services. Furthermore, investigations of drug traffic, gambling and property crimes produce considerable information on prostitution.

There has been no indication that federal investigations have developed evidence of operations having organized crime characteristics.

There is no evidence that any out-of-state 'power' has moved in to dominate prostitution in New Mexico. If such an attempt is made, it very likely would be through the establishment and control of the massage parlors, escort services or related businesses.

Those who expect law enforcement to eliminate prostitution under present social attitudes are being unrealistic. However, law enforcement will be expected to expend resources so that the activity does not become uncontrollable. The Commission will continue to participate with law enforcement agencies in their surveillance of this activity, and will place its priorities on any indications of organized crime.

Pornography:

Attempts to establish 'community standards' on the subject of obscenity are creating heated controversy throughout the country, including New Mexico. It is anticipated that the battle will continue for many years. The Commission has not been involved in programs or projects designed to establish 'community standards'. Its attention has been directed to indications of organized crime involvement in the ownership, financing or operation of book stores; the financing and production of films; the distribution of films; and the showing of films.

LABOR RACKETEERING -

New Mexico has not yet provided the attraction to organized crime leaders to establish operations designed to misuse or abuse the resources of labor unions.

The Commission has not seen evidence of the presence of the many racketeers who move throughout the country to fleece, or otherwise misuse, unions. There is, however, the disturbing indication of labor union officials engaging in irregular, if not illegal, activity associated with the funding of election campaigns. This is dangerous and, regardless of the existence of organized crime trappings, the activity sets the stage for organized crime infiltration and its resultant deterioration of a labor union and the corruption of government structure.

The tendency has been to minimize this threat but, because of the inevitability of corruption, it would be unwise to overlook evidence or indications of potential problems. The state's monitoring resources are limited but we do have the valuable input of federal interest and involvement.

ARSON -

As was discussed in the 1973 report of this Commission, arson and bombings have historically been major weapons of terror, coercion, fraud and protest. The National Fire Protection Association estimated that over 75,000 incendiary fires were set in 1973 — more than 13 times as many as in 1950. Arson losses in that year were over \$250,000,000. Arson and bombings are used in such criminal activities as insurance fraud, labor disputes, gang warfare, obstruction of justice, competition for territories and subversive movements.

New Mexico has not been immune from this national trend. The Albuquerque Fire Department reports that there were 1,211 suspected arson-related fires in 1973 and the Department estimates that there will be over 1,500 in 1974. Due to the limitations of personnel, the Department was only able to investigate about 10% of the cases in 1973. These investigations resulted in 28 arrests. The Department considers the arson problem so serious that it has requested Law Enforcement Assistance Administration funding to staff and equip an enlarged arson and fire investigation unit. Law enforcement and fire officials in other parts of the state also feel that incendiary fires and bombings are on the increase.

There are disturbing indications that organized criminal groups are using arson or bombings in connection with their other criminal activities (i.e., the collection of gambling debts). The Commission will continue to monitor, on a statewide basis, arson activities and will continue to gather intelligence regarding such arson rings.

## CORRUPTION

The Commission has pursued allegations of corruption in compliance with its basic responsibility. Where there is organized crime, there is corruption. To disregard the gravity of corrupt activity has provided, historically, the atmosphere for a build-up of organized crime.

The Commission has reliably established the existence of disturbing links and involvements between government officials, at various levels, and the criminal element. This is not founded on reports of mere association or contact, but is predicated on their discussions, negotiations and transactions as disclosed by intelligence. To ignore these indications would be a serious dereliction of duty on the part of the Commission. The Commission's policy in publishing details of its information is governed by the following:

1. the amount of data that must be assembled to lead to the successful prosecution of such cases;
2. the requirements of due process of law, and the absolute necessity to adhere to these requirements;
3. the statutory restrictions on dissemination of information;
4. the responsibility of honoring the needs and jurisdictional responsibilities of other agencies which have related investigations pending; and
5. the Commission's policy to adhere to the standards of 'fair play' and the privacy of the individual.

There have been developments within the past year which clearly indicate that the state has manifestations of corruption of an alarming nature. Attention is directed to the following:

1. the trial and conviction of a State Senator on two counts of bribery of employees of the Construction Industries Commission;
2. alleged falsification of election campaign contribution reports;
3. the activities of the Attorney General, such as his association with the Great West Savings and Loan Association; and his issuance of 'advisory letters', which hindered law enforcement efforts;

4. county officials maintaining close relations with professional gamblers;

5. the activities surrounding the controversial property tax settlement of Western Skies Corporation, involving Attorney General David Norvell and other individuals of public stature, and which included unexplained ramifications in Oklahoma; and

6. the publicized examples involving fraud by an official in the Urban Development Agency; a magistrate suspended after \$11,000 was missing from his office; the extensive complaints of misconduct and irregularities on the part of officials in Valencia County; the indictment of the Sheriff of Taos County, which included the charge that he failed to account for money coming into his possession; and the allegations of irregularities in the State Highway Department.

Numerous allegations have been received by the Commission pointing at alleged corruption throughout the state. Some of these appear to be fabricated with malicious intent; some are the misshapen products of hearsay; and there are those which definitely require probing. There are also the instances where damage can be prevented by alerting appropriate officials, who can take corrective administrative action. This has been done.

During the course of research and investigation conducted by the Commission, the roles of the legal profession and the business community stand out as highly significant factors. It has been established that many sophisticated operations designed to evade the law require legal expertise and entree to commercial institutions. Repetitious as this appeal may be, it is incumbent upon the legal profession and the business community to intensify their efforts to counter the adulteration and criminal infiltration of their professions and establishments.

The Commission has no intention or reason to present an Armageddon scene in New Mexico. This state is experiencing the same problems and threats evidenced throughout the country. We do have rot in the system and we are living in a dream world if we believe otherwise.

There are several weaknesses in state monitoring and control capa-

bilities. Positive corrective action will reduce the exposure to corruption. Much of this has been covered in separate sections of this report. Additional information on combating corruption appears in the Guidelines section of this report.

## B. COMMISSION ACCOMPLISHMENTS

The work of the Commission covers a wide range of responsibilities. Preceding sections of this report provide an overview of efforts expended in the past year; nevertheless, it will be useful to summarize the major accomplishments. The Commission:

1. furnished intelligence to local, out-of-state and federal agencies, including evidence for prosecutive purposes, and conducted investigations for law enforcement and regulatory agencies of other states;
2. made good progress toward full achievement of the ten goals listed in the 1973 report. It is believed that independent evaluations support this position;
3. established an Organized Crime Committee composed of law enforcement officers throughout the state, as well as one federal representative, to develop a coordinated attack against organized crime. This is the first attempt in New Mexico to organize a coordinated group among law enforcement agencies for this purpose;
4. cooperated with the Albuquerque Police Department in a project to identify organized fencing. This yielded, as a by-product, several cases for prosecution in the property-crime field;
5. received a favorable assessment in an evaluation by a Law Enforcement Assistance Administration organized crime specialist;
6. participated, with local and federal agencies, in sensitive illicit-drug investigations that have led to prosecution;
7. increased and refined liaison with law enforcement agencies inside and outside of the state;
8. developed valuable intelligence on key white-collar crime targets, which precipitated action by prosecutive agencies;
9. refined and improved the procedures for gathering, processing and analyzing intelligence data. This system now provides an excellent base for reference purposes and the production of analytical findings;
10. continued on-the-job training of personnel and received specialized training outside of the state;

11. provided a federal agency with highly valuable information leading to an arrest and the recovery of stolen bonds valued at approximately \$100,000;

12. established an intern program with the University of Albuquerque for students to conduct research into criminal justice matters under Commission guidance;

13. as a special study, conducted numerous investigations, interviews and research in an examination of fencing operations in Albuquerque;

14. prepared and distributed the Commission's initial Intelligence Bulletin for New Mexico law enforcement agencies;

15. conducted a major in-depth study of the five racetracks in New Mexico;

16. conducted a study of illicit drug use in New Mexico. This included the implementation of a new narcotic intelligence/arrest form being used throughout the state, provision for the monthly supplementation to drug arrest and seizure data, and the analysis of all drug arrest reports in Santa Fe for 1973. The purpose was to acquire badly-needed data for the evaluation of illicit drug traffic in the state;

17. participated in law enforcement conferences in New Mexico and in other states;

18. participated in the training of officers and students in criminal justice studies and programs;

19. conducted research, collected data and handled the planning and communications leading to the acquirement of needed federal funds;

20. established a fiscal system for the Commission;

21. conducted investigations that led to the severe disruption of the bootleg tape racket in New Mexico;

22. pursued investigations in preparation for the first Commission hearings;

23. assisted in the development of a multi-state Indian jewelry identification system;

24. attended, in October, a national conference jointly held by the Indiana Organized Crime Prevention Council, the National Association of Attorneys General and the federal Law Enforcement Assistance Administration. The conference used this Commission's 1973 Annual Report as a guide for the development of organized crime control programs;

25. served on the Governor's Council on Criminal Justice Planning and actively participated in study teams, programs and projects;

26. established a mechanism for conducting legal research relating to the development of needed legislation in combating crime. The first products will be submitted to the 1975 legislative session. This mechanism consists of an ad hoc committee composed of the Commission's legal counsel, an attorney from the Bernalillo County District Attorney's office, and legal advisors from the Albuquerque Police Department and the State Police Department. Its purpose is to develop and propose legislation and also to serve in an advisory capacity to the Commission;

27. maintained efforts to increase public awareness of the threat of organized crime;

28. established and expanded a library for organized crime research, which now covers a broad range of criminal justice subjects;

29. established security and privacy procedures for the state-wide intelligence system in order to protect the rights of the individual citizen;

30. assisted localities in assessing their crime problems and in developing countermeasures;

31. furnished special reports and assessments regarding organized crime to the Governor; and

32. prepared and submitted the Commission's 1974 annual report.

### C. GUIDELINES FOR A COMPREHENSIVE PLAN

The Commission has chosen to present the following material in the form of 'Commentary' and 'Guidelines'.

'Commentary' permits a general discussion of the subject in the context of this state and the status of its forces and resources. 'Guidelines' permits the inclusion of suggestions, as well as firm recommendations, for present and future actions.

#### Foreword:

The appalling crime rate in the United States, including New Mexico, cannot be divorced from any assessment of organized crime. The activities of organized crime stimulate the perpetration of personal and property crimes, such as burglary, and the increasing disrespect for the political and criminal justice systems leads to the worst menace of all — corruption.

In these days of increasing crime, organized crime is enjoying several special advantages:

1. a growing pool of young criminal talent which makes recruiting easy;
2. the increased amount of stolen property means an increasing number of distribution networks are needed, which only organized crime can provide;
3. a tendency for the young criminal talent to organize its own small groups. These groups, when they become competitive, must be disciplined and structured by, or absorbed into, the larger groups now in existence; and
4. as the total criminal population further strains the resources of the criminal justice system, the justice-system personnel have less time to maintain the difficult surveillance, or to join in the combined operations that are necessary in order to move against the complex activities of organized crime.

A growing crime rate means growing activity in organized crime; is the crime rate going to increase or decrease in the nation? In New Mexico?

The Commission has made a projection which indicates that the crime rate will be increasing, both in the nation and New Mexico, until approximately 1985. The projection, detailed in Appendix A (see page 115), is based upon the proportion of persons in the 15-24 age group to the total population. Statistics clearly reflect a direct correlation between the incidence of crime and the number of people in this age group. As is well-known, we are undergoing a 'population bulge' which is the result of the 'baby boom' that followed the Second World War, and the population bulge is passing through the 15-24 age group. The bulge will not have passed through this crime-prone age group until the early 1980's.

The Commission is aware that its projection does not take into account the myriad social, economic and moral elements that can and do influence the rise and fall of crime in our society. Surely these elements will have their influence, and were they all to move in the direction which discouraged crime, we would very quickly see a drastic change for the better.

The population shifts, to and away from large cities, the effect that ghettos, unemployment, automobiles, movies, political scandals, television programs, education, parental authority, economic opportunity, religious and moral values, technology and even energy crises have upon crime rates is generally accepted. These are, however, massive and shifting independent variables which give very little indication of their future condition and the resultant effect upon crime. These conditions must improve, and we must work to improve them. The Commission does not wish, by omission, to appear to reduce or ignore any area in which a great number of professionals and dedicated amateurs are working to understand crime, reduce its incidence, and to elevate the quality of life in America.

In summary, this projection is a reasonable way to attempt to judge the tide that responsible people are warning may 'inundate' us. It suggests that the police, prosecutive, judicial and correctional agencies of the state, already hard-pressed by the record high level of criminal activity, must be prepared to see the level rise even higher, possibly



through the early 1980's, before a decline begins.

The questions of whether these agencies have sufficient resources and funding, whether they are operating at a maximum level of efficiency, and whether the coordination among the agencies and institutions can be raised to a sufficient effectiveness, need the serious attention of all persons responsible for state government.

There is no question, however, that crime and organized crime grow in tandem, one along with and because of the other, and that the entire criminal justice system is confronted with a heavy and increasing workload.

With this future perspective in mind, the Commission is presenting guidelines for achieving desirable standards and goals. Some of these guidelines can be implemented within a reasonable period. Others are of a long-range nature, which undoubtedly will require additional resources. They are characterized with sufficient flexibility to afford needed adjustment; to sustain soundly established assets already in existence; and to ensure the equitable administration of justice. The guidelines not only relate to the responsibilities of this Commission but to all agencies which may play a role in combating organized crime.

THE ORGANIZED CRIME ACT -

Commentary:

An examination of the Organized Crime Act has disclosed flaws which warrant corrective action if the Commission is to discharge its responsibilities effectively. Proposed amendments will be introduced in the 1975 Legislative Session.

Guidelines:

The proposed amendments are as follows:

1. an amendment to the section on the investigation authority of the Commission by adding language to the effect that investigations shall be directed at organized crime, but not necessarily limited thereto;
2. that the Commission be authorized to issue its own subpoenas. Enforcement action would lie with the District Court;
3. the Organized Crime Act expressly excludes the Commission from the provisions of the Public Meetings Act. However, since the enactment of the Organized Crime Act, the Public Meetings Act has been repealed and replaced by a new Public Meetings Act. The Commission recommends an amendment to the Organized Crime Act to refer specifically to the new Public Meetings Act. This will preserve the original intent of the Legislature;
4. Commissioners and Staff be granted immunity from certain types of lawsuits connected with their public duties. The Commission recommends a statute similar to that which protects employees of the State Police from any tort or act done in the performance of their official duty. The Commission believes this will ensure that public-spirited people, who have the qualifications defined by the statute, will be willing to accept appointments to the Commission and undertake the difficult task of investigating organized crime; and
5. it is recommended that a procedure be established whereby employees of the Commission be allowed to take sworn testimony from witnesses for the purpose of preserving the testimony in matters other

than public or private hearings. This procedure would be helpful in situations where full implementation of hearing powers of the Commission is not necessary.

#### DEFINITION OF ORGANIZED CRIME -

##### Commentary:

"When there is evidence of continuing criminal conspiracy, structured according to authority or skills, operating substantially for the purpose of unlawful profit and power, which uses fear, force or corruption, or supplies illegal goods or services, or supplies goods or services illegally, there is evidence of organized crime."

1973 Annual Report

This has served as a guide and is not to be interpreted within the narrower framework of legal criteria. The definition was devised to fit the needs of New Mexico and is a practical, solid predication which has been accepted.

Numerous variations of the above definition have been published. They are related and all should be kept in mind by law enforcement agencies.

##### Guidelines:

1. The above definition will continue to be used, subject to modification as circumstances warrant.

COMMISSION STAFF -

Commentary:

The present staff consists of the executive director; assistant director; legal counsel; three investigators, plus one investigator detailed from the State Police and one detailed from the Albuquerque Police Department; one investigator-analyst; one administrator/analyst; and four secretarial-clerical employees.

It is the experience of other organized crime control units that high-skilled specialists in the fields of law and financial investigation are a basic requirement. In order to compete for this type of personnel, it is necessary to offer competitive salaries. The Commission is undergoing difficulties in acquiring such personnel within the state's salary restrictions.

Another difficulty encountered by the Commission is the diversity of the several personnel and retirement systems, which apply differently to different executive agencies.

The members of the staff are exempt employees by statute. The requirements of the positions are such that the positions cannot reasonably be expected to be filled through the state personnel system. They are difficult to fill, by whatever means. Although staff positions are all exempt, the Commission observes, insofar as practicable, the rules and procedures applicable to state employees in general.

Staff investigators are peace officers by statute; however, they do not receive the same retirement coverage as the officers of the State Police.

Guidelines:

1. It is imperative that the Commission acquire the services of a competent financial investigator.
2. There is a national shortage of highly professional organized crime specialists; therefore, the Commission should continue its program to train and develop personnel currently on the staff.

3. The Commission recommends that the personnel strength-level, including a financial investigator, be maintained for the next two fiscal years. This aspect of the Commission will be periodically reviewed and will be regularly examined by the Department of Finance and Administration and the appropriate Legislative Committees.

4. The retirement benefits for the peace officers of the staff should be the same as those for officers of the State Police Department.

5. The Commission should continue the use of qualified personnel for specialized assignments on an as-needed basis.

## INTELLIGENCE OPERATIONS -

### Commentary:

The establishment of an organized crime intelligence system is essential to the development of an effective organized crime control program. Every statewide organized crime prevention and control unit presently operating in the United States conducts some degree of intelligence operations. If law enforcement is to attack organized crime successfully, it must have intelligence to determine the nature and extent of organized crime, identify individual and organizational targets, determine vulnerabilities and develop strategies to successfully prosecute those targets.

Organized crime presents peculiar problems for law enforcement. Syndicated groups are sophisticated conspiracies, mainly dealing in consensual crimes, with capable legal and accounting advice, enough depth in each organization to be self-perpetuating, and with their top figures insulated from direct involvement in the criminal acts. If law enforcement is to have any chance of success, it must have the maximum available information and intelligence. The National Advisory Commission on Criminal Justice Standards and Goals, in its 1973 Report on the Police, stated that it was essential that each state, in order to provide a comprehensive intelligence system, should establish a statewide system for gathering, storing and analyzing information, and disseminating intelligence.

The Commission, in order to fulfill its statutory mandate regarding organized crime, established in July 1973, a statewide organized crime intelligence unit consisting of Commission agents and agents detailed from the State Police and the Albuquerque Police Department. Commission personnel have travelled throughout the state to orient all of the enforcement agencies in the development of needed cooperation and input to provide a product that will be useful to all. The Commission has also established a fifteen-member Organized Crime Committee whose members represent the various-size departments, both Sheriff and Police, and the various geographical sections of the state. In addition, the New Mexico head of one federal agency is a member. The Committee serves as an important advisory

and operational arm of the Commission. The Commission, with the assistance of the Committee, recently issued the first of a planned series of Intelligence Bulletins.

### Guidelines:

1. The Commission should continue the operation and improvement of its organized crime intelligence unit and its Organized Crime Committee.
2. Every police and prosecutive agency should actively participate in providing information to this system and should designate one person to serve as liaison agent with the Commission intelligence unit.
3. Each department with more than 50 personnel should have a full-time intelligence capability, and smaller departments should attempt to develop at least a part-time capability.
4. All police academies and schools should provide intelligence training in recruit, advanced and specialized training schools.
5. The Commission will serve as a repository for organized crime information and for the analysis and dissemination of intelligence to the concerned agencies. This is the coordinating and catalytic role assigned to the Commission by statute.
6. The various agencies and the Commission, jointly, will establish targets and priorities in organized crime and will develop information collection plans for these targets. These plans should include the problem, the project objectives, the collection techniques, the manpower requirements and the cooperative roles to be filled.
7. The Commission will continue to develop, in cooperation with the various New Mexico, and out-of-state, law enforcement agencies, an Indian jewelry identification and intelligence system.
8. The Commission will continue to maintain communication and liaison with out-of-state and federal law enforcement agencies.
9. The Commission will continue to ensure the integrity, privacy and security of the intelligence files. The procedures adopted will be periodically reviewed by the Commission.

10. Intelligence operations of the Commission and all other agencies should conform to mutual objectives and should operate in a cooperative and non-competitive atmosphere adhering to a 'two-way street' concept.

11. Establishment of intelligence systems and training programs should be coordinated with the Commission, with a view to establishing agreed-to uniformity.

12. Consideration will be given in present planning and in systems to future computerization of data, wherever feasible.

13. There should be developed a pool of skilled and trained intelligence analysts through the use of formal and on-the-job training programs. Intelligence analysis should be established as a career field within the criminal justice system.

#### DEVELOPMENT OF PROSECUTIVE RESOURCES -

##### Commentary:

The present statute does not provide prosecutive powers to the Commission. If conditions warrant such authority, it would require a complete revamping of the Commission and its legislation. It is the estimate of the Commission that such a drastic change for New Mexico is premature.

The lack of prosecutive powers could be described as a deficiency in the state's capability to combat organized crime in its many ramifications. Ideally, the Commission should have its own prosecutive arm. Moving potential prosecution through district-attorney channels can be effective, but experience throughout the country has strongly indicated that this is not an efficient procedure. The district attorney, if not cooperative or not reliable, can emasculate the best evidence collected. Another channel is the office of the Attorney General. During the existence of the Commission, this has been a most undesirable course to follow. The interests and the objectives of the Commission and the Attorney General did not blend. Needless to say, a strong Attorney General's office, motivated to move aggressively against targets identified as organized crime threats, would greatly enhance the overall capabilities of the state to achieve successful prosecution.

The concept of a statewide grand jury, with a special prosecutor, may be a desirable goal for the state. This is a prosecutive alternative which must be carefully studied and analyzed.

##### Guidelines:

1. Procedures should be effected so that the Commission's Legal Counsel can be designated as an assistant to the Attorney General, or as an assistant to a District Attorney when such action may be warranted, with the understanding that the purpose would be to work in concert with the Attorney General or District Attorney toward agreed-upon objectives.

2. It is essential that the Commission seek the highest degree of expertise in the office of the Legal Counsel, since this position will be of ever-increasing importance.

3. The efforts already initiated to stimulate and establish better coordination and exchange of knowledge with district attorneys must be intensified.

4. Through better coordination with regulatory agencies, the Commission should pursue opportunities to use the powers of these agencies to supplement prosecutive resources.

5. The program established to pursue needs for new legislation should be continued. The goal should be to acquire the input from the entire law-enforcement family, and to include a collective assessment.

6. The Legal Counsel of the Commission should maintain regular liaison with appropriate out-of-state prosecutors, with local legal associations or societies, with the academic community and with civic organizations, including those which maintain ombudsman profiles.

7. The Commission, through the Legal Counsel, should emphasize the responsibilities of developing among all prosecutors a unified attitude for the curbing of corruption.

Although the following are not direct responsibilities of the Commission, it will, whenever feasible, encourage and participate in:

(1) the development of training programs for assistant district attorneys;

(2) intensified efforts to reduce the turnover of assistant district attorneys. It is generally accepted that this will require substantial increases in salaries;

(3) the development of an atmosphere in the office of the Attorney General conducive to a harmonious approach and significant participatory role in the assistance of law enforcement agencies;

(4) giving increased attention to the development of conspiracy cases, particularly in the areas of illicit drug trafficking and white-collar crime;

(5) the increased participation of prosecutors in the training programs for law enforcement agencies;

(6) the elimination or substantial reduction in the number of district attorneys who are also conducting private practices. The exposure to conflict of interest is extensive and creates serious obstacles for law enforcement agencies; and

(7) the firmer prosecution, through efforts of the district attorneys and the courts, to reduce the increasing number of habitual offenders on the streets. Controversial as this may be, the situation requires major attention. This calls for leadership and unity in all sectors of the criminal justice system.

TRAINING -

Commentary:

The Commission recognizes that the successful control of organized crime cases requires a high degree of investigative and prosecutive skills. In order to develop and perfect those skills in its personnel, the Commission has provided opportunities for formal and on-the-job training and has encouraged specialized university training. Commission personnel have attended intelligence-collectors and intelligence-analysts schools conducted by the California Department of Justice; a nation-wide organized crime seminar conducted by the Law Enforcement Assistance Administration; short investigative technique seminars conducted by the Arizona Department of Public Safety; two-week police schools conducted by the U.S. Drug Enforcement Administration; and several other seminars and conferences. One Commission investigator is also studying accounting at a university in off-duty time to develop expertise in financial investigations. The Commission staff also is receiving on-the-job training by the legal counsel and executive staff of the Commission.

The Commission feels that the organized crime control training of all criminal justice system personnel should be increased. To further this end, the staff has aided with instruction at colleges and universities, as well as at police schools and academies. In cooperation with the University of Albuquerque, the Commission has developed an intern program for selected university students. The Commission is also developing a library on organized crime and other law enforcement subjects to serve as a research resource for the entire criminal justice system.

Guidelines:

1. Personnel of all agencies assigned full time, or primarily, to organized crime investigation or prosecution should receive additional training to permit maximum effectiveness.
2. The commission will continue the advanced and specialized training of its personnel.
3. All police academies should provide orientation training in

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