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CRIMINAL REDISTRIBUTION

of

STOLEN PROPERTY

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A REPORT TO THE ILLINOIS GENERAL ASSEMBLY

BY THE

ILLINOIS LEGISLATIVE INVESTIGATING COMMISSION

300 West Washington Street, Chicago, Illinois 60606

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THIS REPORT IS RESPECTFULLY SUBMITTED PURSUANT TO SPECIFIC RESOLTUION 6 ADOPTED BY THE ILLINOIS LEGISLATIVE INVESTIGATING COMMISSION ON DECEMBER 17, 1973.

COVER PHOTO: Delivery of stolen merchandise to Commission's undercover warehouse. (Unless otherwise specified, photographs in this report were taken by the Commission staff.)

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ILLINOIS LEGISLATIVE INVESTIGATING COMMISSION
SPECIFIC RESOLUTION 6

This resolution was sponsored by the then members of the Illinois Legislative Investigating Commission:

Senate Members:	House Members:
Philip J. Rock	Joseph G. Sevcik
Daniel Dougherty	Horace L. Calvo
John B. Roe	Peter P. Peters
Frank D. Savickas	George H. Ryan, Sr.
Hudson R. Sours	W. Timothy Simms
Jack E. Walker	James C. Taylor

This resolution was unanimously adopted by the Commission members on December 17, 1973, and is quoted below:

"WHEREAS, it is the purpose of the Illinois Legislative Investigating Commission to investigate and establish facts and information relating to matters on which the General Assembly may legislate; and

"WHEREAS, the Commission has the power to investigate generally any acts or intent constituting the same, or both, occurring within or without the State, if such conduct affects the public health, safety, or welfare of the State; and

"WHEREAS, the Select Committee on Small Business of the United States Senate recently issued a report on the subject of criminal redistribution, or "fencing," systems and their economic impact on small business in this country; and

"WHEREAS, property crimes have increased 182 percent since 1960 and now involve property thefts of $16 billion per year, including $1.5 billion per year by the theft or hijacking of cargoes from air, truck, rail, and maritime carriers; and

"WHEREAS, huge amounts of goods stolen from carrier vehicles, stores, docks, terminals, and warehouses are passed along to unscrupulous buyers and criminal "fences;" and

"WHEREAS, stolen goods are sold at less than fair market value in unfair competition with legitimate business enterprises; and

"WHEREAS, a total of 255 Federal indictments involving criminal redistribution of stolen property were returned in Illinois during Fiscal Year 1972, now therefore:

"BE IT RESOLVED, that pursuant to the Illinois Legislative Investigating Commission Act, Ill. Rev. Stats. Ch. 63 § 301 (1973), et. seq., the undersigned members of this Commission hereby authorize the Executive Director and members of the staff to thoroughly investigate criminal redistribution of stolen property and related activities throughout the State of Illinois; and, be it further

"RESOLVED, that the Commission may conduct public hearings, as may be deemed necessary, and shall report its findings and any recommendations for legislation to the General Assembly upon completion of all or any integral part of its investigation."

STATE OF ILLINOIS
LEGISLATIVE INVESTIGATING COMMISSION
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TO: HONORABLE MEMBERS OF THE GENERAL ASSEMBLY

This is a report of our findings, conclusions and recommendations pursuant to Specific Resolution 6, adopted unanimously by the Commission on December 17, 1973, under the authority vested in our enabling legislation: Section 8 of the Illinois Legislative Investigating Commission Act permits the Commission to adopt its own resolutions when 1) the General Assembly is not in session; and 2) the subject matter has not been previously considered by the Legislature.

Specific Resolution 6 states that property crimes have increased 182 percent since 1960 and involve thefts of $16,000,000,000 a year, including $1,500,000,000 per year in cargo thefts alone. The resolution further notes that huge amounts of goods stolen from carrier vehicles, stores, docks, terminals and warehouses are passed along to unscrupulous buyers and criminal "fences," who in turn sell these goods at less than fair market value. The resolution mandates the Commission to investigate fencing and its related activities.

The investigation was the first of its kind ever undertaken in Illinois--indeed, it was one of the first of its kind conducted anywhere. In establishing an undercover fencing operation of its own--infiltrating the network of fences, thieves, truckers, dockworkers and others--the Commission set an early example of an investigative tactic which today is being widely used around the country.

We did not, at the outset, intend to continue this investigation for three years. But as one contact led to another, the investigation gained a momentum of its own, and we followed it through phases wholly unanticipated at the beginning. All of these phases proved fruitful.

Fencing is most assuredly an enormous problem in the Chicago area--as it is in major cities throughout the country. But it is one of those street crimes which has received too little attention, and it is one which the public in general is only too willing to tolerate. In addition, the laws against criminal receiving are extremely weak.

The combination of public patronage of fences and weak laws makes investigation of this subterranean activity very difficult. But Commission agents, working closely with reliable informants, were able to penetrate several key fencing rings. We also received considerable cooperation from several manufacturers, who provided the Commission with "buy" money to recover their stolen merchandise. And we shared information and intelligence with a number of State, federal and local law enforcement agencies.

The Commission recovered approximately $253,000 worth of stolen property during the course of this investigation with only $45,000 in "buy" money. In addition, in our investigation of one fencing operation, Commission agents learned that a discount store proprietor and his associates were making plans to commit "the largest cash burglary in the history of the country." This turned out to be the $4,300,000 Purolator burglary on October 20, 1974, and our information turned over to the Federal Bureau of Investigation resulted in the arrest of the suspects within days after the theft. Half of the Purolator money was recovered, five men were sent to prison, and our informant was presented with the $40,000 reward money. In total, then, the Commission's fencing investigation resulted in the recovery of approximately $2,000,000 in stolen property.

Late in the investigation we were able to penetrate a ring of fences and thieves who dealt in stolen art, antiques and jewelry--and, again, information provided by this Commission resulted in the arrest and conviction of one of the country's best and most long-sought cat burglars.

We subpoenaed 77 suspects for questioning during the course of the investigation, a number of whom testified at our public hearings in September, 1975. Twelve others were arrested and/or convicted of various crimes, including the operator of one of the city's biggest fencing operations on Chicago's South Side. This latter individual was convicted of tax evasion on the basis of evidence we recovered showing how he had maintained two sets of ledgers *(see Appendix A)*. Such double bookkeeping procedures are common in the fencing racket.

The Commission believes that the best way to curb the problem of fencing and to reduce crimes against property is an amendment to the Criminal Code to authorize civil action for fencing of stolen merchandise for threefold the amount of actual damages. Such action is provided for in Senate Bill 667, sponsored by Commission member Senator Philip J. Rock, and we support this bill.

In addition, the Commission has proposed legislation which incorporates the language of Senate Bill 667 and further allows punitive damages, creates certain statutory presumptions and precludes raising issues and defenses litigated and determined at an earlier criminal trial *(see Appendix B)*. Both bills provide sanctions against fences who have eluded prosecution under criminal statutes because of higher due process requirements.

We also favor legislation making most violations of revenue law felonies, with at least a three-year statutory limitation for prosecution. Currently, such violations are Class B Misdemeanors, and the period of statutory limitation is 18 months.

Respectfully submitted,

Co-Chairmen:
Sen. John B. Roe
Rep. James C. Taylor

Senate Members:
Prescott E. Bloom
Samuel C. Maragos
James "Pate" Philip
Philip J. Rock
Frank D. Savickas

House Members:
Jane M. Barnes
Clarence A. Darrow
Aaron Jaffe
Peter P. Peters
W. Timothy Simms

Acting Executive Director:
Ronald Ewert

INTRODUCTION

Background

In the winter of 1973-74 this Commission began a three-year investigation into illegal distribution of stolen property--a crime commonly known as "fencing."

This investigation, the first of its kind ever undertaken in Illinois, was premised upon the assumption that property theft crimes involve two basic elements: the theft itself, and the distribution of the stolen property. But whereas most efforts to prevent and to investigate property crimes focus upon the thief, ours focused upon the receiver --the fence.

The word "fence" is an underworld term which originated in the late-17th and early-18th centuries. That was when Jonathan Wild, the most prominent and powerful fence in history, controlled the London underworld for more than a decade. The term may have evolved from the shady practice of selling over the back fence, but it also refers to a "go-between"--a person who takes from one side and sells to the other.

In any case, a fence is a person who buys and sells stolen property, and there are as many different kinds of fences as there are thieves. They work out of discount stores, jewelry stores, taverns, pawn shops, antique shops, auto parts shops, or any business whose inventory cannot always be easily accounted for. Many fences are skilled businessmen, and many of them affect the appearance of being honest businessmen--since very often a large part of their business is legitimate. However, in many other cases, the legitimate side of the business is simply a camouflage for the fencing activities.

A fence maintains close business relationships with a variety of thieves--warehouse dock workers, truck drivers, boosters, etc.--persons who can supply him on a regular basis with the goods he wants. Generally, a fence pays somewhere between 20 and 30 percent of retail market value--although this figure varies depending upon a number of factors: if he buys in bulk quantities, or if the stolen property has a lot of "heat" on it (i.e., if the police are watching for its distribution) he will pay less. The fence, in turn, will sell the stolen merchandise at any price which suits his purpose, but usually he sells at less than market value in order to lure customers to his store. Especially in the discount store business, fences tend to sell at a small margin of profit, hoping to make money through large volume. It is an extremely

competitive business, with each discount store trying to undersell the large chain stores as well as the small discount store down the street.

The fence's role in the whole area of property theft is critical, for without the fence the thief would have no outlet for his goods. Thus, Solderman and O'Connel in Modern Crime Investigation, wrote:

> It has been truthfully said time and again that if there were no receivers of stolen goods there would be very little crime against property and against persons who are attacked and robbed of property. Criminal receivers are responsible for most of the dishonest and unethical practices in business, for youths committing crime, and for professional criminals continuing in crime.

One reason, perhaps, that Jonathan Wild was able to thrive for so long was that England at the time, though it had strict laws against theft, had no law prohibiting receipt of stolen property. This is hardly the case in the United States today. There are at least 10 sections of Title 18 of the United States Codes which outlaw receipt of stolen property, and Illinois, like every state in the nation, has a general statute with criminal penalties for knowingly receiving stolen property.

Even so, enforcement of these laws has always presented enormous problems--stemming largely from the insulated position of the fence. Due process requires that the State establish guilt beyond a reasonable doubt; that is, the State must prove that the property in the fence's possession was stolen, and that he knew it to be stolen.

Most professional fences have stores or warehouses whose huge inventories include a high percentage of legitimately-purchased goods in addition to goods received illegally. And of course fences are extremely careful to destroy or conceal any evidence which would identify stolen merchandise.

But even if it can be proved that the merchandise was indeed stolen, proving that the receiver knew it to be stolen is often impossible. The fence himself may be several times removed from the actual transaction, so that he never comes in contact with the stolen goods. Working through intermediaries, he may have only a financial involvement.

If confronted with the fact that he is in possession of stolen merchandise, the shrewd fence can offer any number of plausible explanations in pleading his ignorance. In other words, proving that he knew the goods were stolen requires

proving his state of mind. Sometimes the courts will find, based on circumstantial evidence, that the accused should have known the property was stolen. But on the whole, this problem of proving prior knowledge is an enormous obstacle to convicting receivers of stolen property.

A less tangible but equally important problem is the general public's tolerance of fences. Indeed, "tolerance" understates the case: to the average citizen there is a certain romance and intrigue about buying "hot" merchandise which is as appealing as the bargain itself. Thus, the same person who would call the police on a thief patronizes the fence. In this way, the professional receiver of stolen property is given added protection--a kind of protection enjoyed by almost no other criminal.

The irony of this situation is that in the long run the public is paying dearly for these "bargains." In 1973 the United States Senate's Select Committee on Small Business issued a report estimating that property thefts in this country total $16,000,000,000 per year--an increase of 182 percent since 1960. The Committee estimated that most of this $16,000,000,000 was the result of internal theft; that is, theft by employees of manufacturing companies, trucking companies, and warehouses.

The only ones who profit from these enormous property thefts are the thieves and the fences. It is the rest of society which pays--through increased prices and taxes. And no amount of "bargains" can make up the loss.

Overview of the Investigation

The Commission's intention from the outset of this investigation was three-fold: 1) to arrive at some estimate of the extent of fencing activity in the Chicago area; 2) to expose some of the area's major fencing operations; and 3) based on these findings, to devise legislation which could reduce and control the fencing racket.

We also knew from the outset that the only way to overcome the many obstacles to an effective probe of fencing would be to conduct an undercover investigation. We had learned from many previous investigations that the best way to penetrate underworld activity is to mix with the underworld; that is, establish fake identities, develop the trust of the suspects, and then play their own game.

But even though the Commission staff is well-experienced in undercover work, we had no experience whatever in the kind

of business engaged in by fences. And as Jerome Hall has pointed out in his article, "Theft, Law, and Society," most fences are

> ...specialists in their chosen fields, able to evaluate merchandise expertly and to compete generally on the basis of their special skills.... Indeed, a large number of receivers are engaged in legitimate business at the same time they are carrying on illegal traffic in stolen goods.

Needless to say, if we were going to convince these fences--who are suspicious by nature--that we were "one of them," our fictitious identities and activities had to be carefully developed and authenticated.

The key that opened the door for us was a confidential informant named Martin Pollakov, a former fence who at one time owned four discount stores. Pollakov gave us chapter and verse about the story of this racket. He explained how a fence can obtain the credit necessary to stock an entire store with merchandise from legitimate distributors; how to delay or avoid paying for the goods; how to bargain with thieves, truck drivers, dock workers, and boosters. But most important, he introduced our agents to his crooked associates as fellow thieves and fences, thereby providing us an "in" which could have taken months or years to establish.

From that point, the investigation progressed quickly. We opened up our own undercover wholesale store. We purchased an old van. We began by buying large quantities of cigarettes and hair spray, at cost, from several major distributors. Then we sold these goods at a slight loss to numerous fences, who in turn sold us virtually anything they had: wrist watches, flashlight batteries, razors, sports shirts, hand guns, and a huge assortment of health and beauty products.

Whenever we made a sizeable purchase of stolen merchandise, we would contact the manufacturers. Usually they were stunned to learn of the internal theft of their products, and in most cases they aided the Commission so that we could make additional purchases. We, in turn, promised to pursue our investigation and determine how they were suffering their substantial losses.

As the following chapters show, we were quite successful in keeping our promise. Two major fencing rings were virtually crippled. A number of fences and thieves were arrested and others lost their jobs. The largest fence in the rings pleaded guilty and was sentenced to prison. And late in the

investigation we were able to penetrate a ring of interstate art/antique thieves.

In 1974, shortly after the Commission's investigation was initiated, police departments throughout the country began setting up anti-fencing operations using the same strategies and tactics that we used. Many of these operations were amply funded by the United States Justice Department's Law Enforcement Assistant Administration "Sting" program, which has proved so successful that LEAA has continued funding these anti-fencing probes for more than three years.

One such operation, the so-called "Washington Sting," is the subject of a recent book entitled Suprise! Suprise!--How the Lawmen Conned the Thieves, published by the Viking Press. The book tells the story of how in 1975 a team of local and federal law enforcement officials, masquerading as mobsters, collected incriminating evidence from hundreds of small time criminals and recovered 3,500 stolen items valued at $2,400,000.

Recent LEAA-funded "Sting" operations have included an art supply business in Louisville, Kentucky, a pool hall in Norfolk, Virginia, and a front investment company in Albuquerque, New Mexico. As of October, 1977, LEAA has financed 32 "Sting" operations in 23 cities, which have recovered $57,000,000 worth of stolen goods with only $1,500,000 in "buy" money. More than 3,000 criminal suspects have been arrested.

Of particular interest is the fact that more than two-thirds of the persons indicted have been identified as career criminals and, according to LEAA, conviction rates have averaged 98 percent.

In addition, a recent study by the Westinghouse Corporation of 12 "Sting" operations reached several significant conclusions. First, the study said that these anti-fencing probes do not trigger an increase in crime, nor do they lure the normally law-abiding citizen into committing crimes. Second, an analysis of crime statistics showed that in the first two to three months after the close of an operation, property offenses decreased from 1 to 25 percent. Over a 4 to 15-month period, the drop ranged from 5 to 26 percent when compared with the previous year. And third, the study noted that besides recovering stolen property the "Stings" furnished information that helped solve other crimes such as murder, assault, and rape.

The funding and scope of the Commission's anti-fencing investigation was much smaller than the LEAA-financed operations, and it did not solve any murders, assaults or rapes.

But we were able to share important information with other law enforcement agencies, and ultimately our investigation resulted in three major and unexpected developments: the recovery of a stolen stamp collection valued at $80,000; the arrest and conviction of Scott Wayne Worthington, who has been described as the most successful cat burglar in the country; and finally, the exposure, arrest, and conviction of the burglars who perpetrated the $4,300,000 Purolator burglary on October 20, 1974. The details of our discovery of the plans for this burglary--the largest in history--are described in Chapter 3.

Chapter 1

INVESTIGATIVE GROUNDWORK

In November, 1973, shortly after this Commission decided to conduct a preliminary investigation into the Chicago-area fencing racket, Illinois State Senator James "Pate" Philip was informed by Pepperidge Farm, Inc., of Downers Grove, that the firm had reason to suspect theft of its product as well as a possible fencing operation. Senator Philip, who is now a member of this Commission, relayed the information to then Executive Director Charles Siragusa.

Commission agents promptly contacted Pepperidge Farm officials, who told us the following story. They had learned that one of their franchise distributors had purchased approximately 1,000 cases of Pepperidge Farm stuffing at the Seven Mile Fair, a large flea market in Milwaukee. The distributor told them that he had purchased the stuffing from the owners of Jamie's Discount House for $4.15 a case, well below the $5.33 a case price which Pepperidge Farm charges its distributors.

The officials explained to us that after learning this information they visited Jamie's Discount House in Berwyn, where they observed about 10 cases of their product in the store. When they questioned "Jamie," he refused to give his last name, and he refused to reveal how he came in possession of the product. But he did admit to having sold the stuffing to their distributor.

Our agents told the Pepperidge Farm officials that we would investigate the matter. As it turned out, this interview provided that important "lead" without which an investigation can flounder for months. The lead was Jamie's Discount --words which jogged the memory of a Commission investigator, who recalled that a one-time Commission informant--a man who had testified at our juice loan hearings in 1969--had recently been employed at Jamie's Discount. His name is Martin Pollakov, and five days after our meeting with the Pepperidge Farm officials Pollakov was sitting in the Commission's offices, describing in detail his involvement with the stolen stuffing. Pollakov knew everything, because he personally participated in the entire transaction.

But more important than just the Pepperidge Farm incident, Pollakov related his intimate knowledge of several Chicago area fencing operations--including several businesses he had owned. So once again he was a Commission informant,

and he agreed to work with us closely throughout the fencing investigation.

Pollakov had learned the fencing racket from the ground up. Between 1970 and 1972 he worked for three discount stores --each of which relied heavily on stolen merchandise in order to realize a profit. He learned how to operate this kind of a business, and he gradually became well-acquainted with the network of boosters, truck drivers, dock workers, and other fences--all involved in the same racket. It is a world where the main rule is understood and unwritten: cash-on-delivery, no receipts.

In July, 1972, Pollakov borrowed $4,000 from one friend and $25,000 in merchandise from another and opened his first store, Villa Discount in Villa Park. Then he told a few lies to various credit agencies, was given a good credit rating, and soon the manufacturing representatives were knocking at his door, taking orders and extending credit.

And when the merchandise started coming in, Pollakov, in order to attract customers, sold it at slightly above cost--sometimes even below cost. He bought milk, for instance, at $1.00 a gallon and sold it for 79¢. The reason was that by this time Pollakov was $65,000 in debt, and he needed the cash flow in order to pay incoming bills.

Obviously, Pollakov was making no profit on the legitimate merchandise, but soon the "boosters" (shoplifters) and other suppliers of stolen goods started arriving. They came with stolen toys, tires, beer, cosmetics and pharmaceuticals: Pollakov bought it all.

Before long he had an enormous stock, consisting of about 20 percent stolen goods. But this became a problem: the hot merchandise often came in such large quantities that Pollakov did not have enough customers to buy it all. One such item was Jet Dry, which is used in dishwashers. "I had enough Jet Dry to do the whole county," Pollakov said at our public hearings. "If everybody had three dishwashers, I had enough to supply the whole county."

Pollakov's solution to the problem? He opened a second store in Wood Dale, hoping that an additional outlet would allow him to dispose of his growing inventory.

By this time the bills from the manufacturers began piling up. Sometimes Pollakov made partial payments; often, if a distributor refused shipment until a bill was paid, Pollakov would feign anger, and threaten to switch suppliers.

The salesmen, fearful of losing their commissions, stuck by him. Sometimes, if they demanded payment, he would simply write a bad check--as a way of forestalling payment.

The merchandise, both legitimate and stolen, continued to come in, and although he continued to lose money he was forced to expand again. He opened two more stores--Price is Right in Bellwood and Godfather Discount in Chicago. And although Pollakov said that at one point his four stores were grossing about $100,000 a month, Pollakov never realized a profit. His prices were too low, his overhead was too high--and like many "wheeler-dealer" types, he was a big spender.

In May, 1973 Pollakov, now $550,000 in debt after less than a year in business, closed all four stores and filed bankruptcy.

Several months later, after a short stay at Jamie's Discount, Pollakov turned informant. Working side-by-side with Commission investigators, he played an important role throughout the investigation. He provided introductions to his numerous associates. He helped us to set up our own undercover suburban warehouse, Ross Discount. And he showed us how to run the business.

The storeowners, "boosters," truck drivers, dockworkers, and others involved in the fencing racket do not work 9 to 5 schedules. Their hours are dictated by the availability of goods and money, the need to establish trustworthy contacts, and the continual effort to avoid suspicion. The Commission's undercover agents had to adopt this way of life for more than a year: they worked days, nights and weekends, often as much as 70 to 80 hours per week.

This investigation could not have been conducted without considerable help. The Illinois Bureau of Investigation (IBI) --now the Illinois Department of Law Enforcement, Investigation Division--provided the Commission with manpower, surveillance teams, and operational expenses. The Chicago Police Department also provided surveillance and manpower. And the Cook County State's Attorney's office provided legal advice concerning our evidential purchases and use of electronic surveillance. In addition, we received cooperation and support from a number of manufacturing firms--particularly the Johnson and Johnson Company, the Union Carbide Corporation, and the Barton Chemical Company.

What follows, then, is a description and summary of our transactions with numerous individuals involved in the illegal business of buying and selling stolen property.

Chapter 2

DELMAR LEE MARKHAM: JOHNNY'S DISCOUNT HOUSE, INC.

Johnny's Discount House, owned by Delmar Lee Markham, was one of the biggest fencing operations in the Chicago area. The Commission's undercover investigation of Markham's business, located at 7612 West 63rd Street in Summit, lasted more than five months and ultimately resulted in his arrest and conviction.

Our initial information about Markham came from informant Pollakov, who told us that one of the products Markham dealt in most heavily was stolen batteries. Pollakov did not know Markham's direct source, but he knew that the batteries were stolen from the Union Carbide Company at 6801 West 65th Street in Chicago.

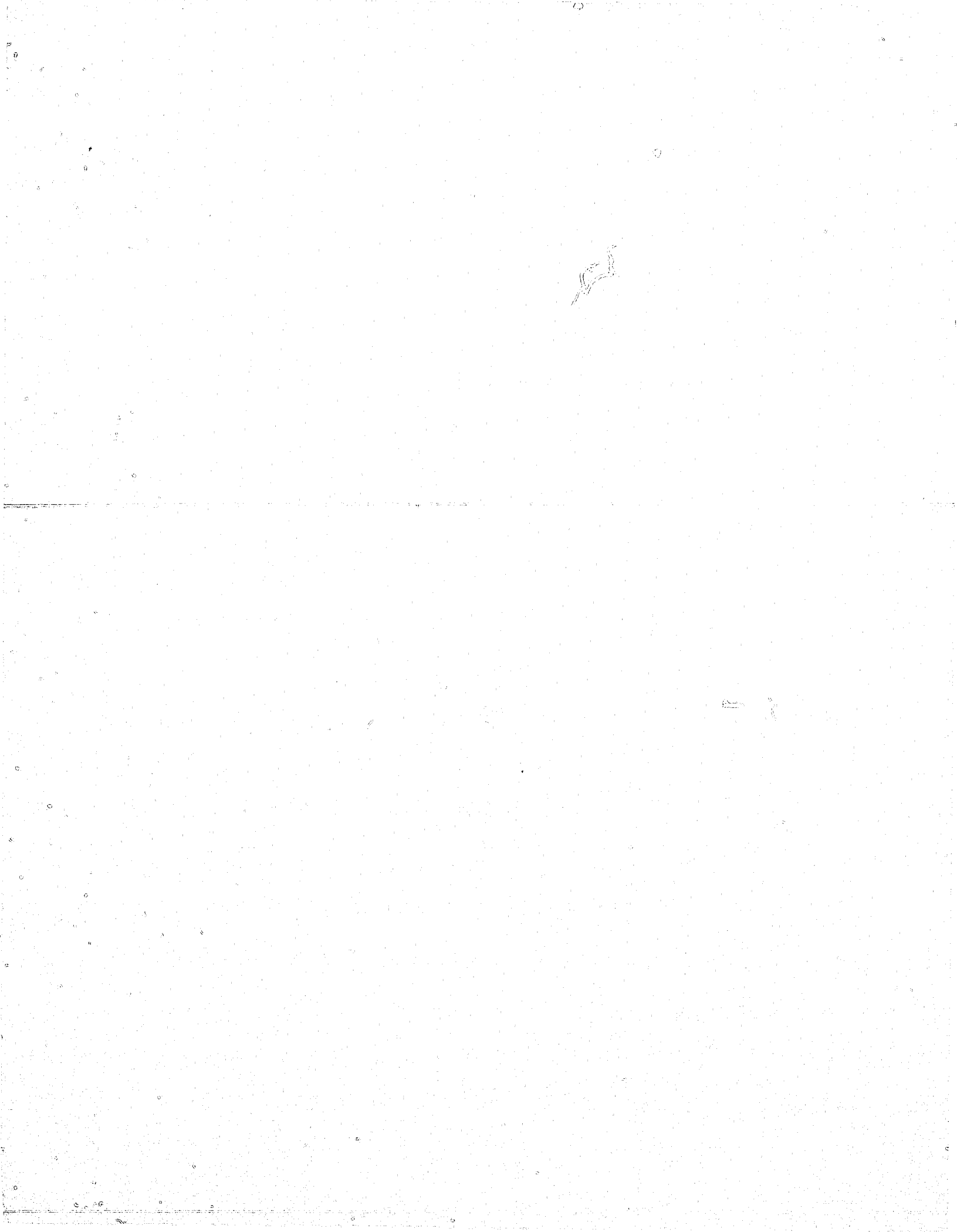
We instructed Pollakov to contact Markham and tell him that he knew someone who wanted to buy "hot" batteries. In turn, we would provide Markham with a good deal on cigarettes. Pollakov called Markham, told him about "Ron's" interest in the batteries, assuring him that "Ron" was an old and trustworthy friend. A short time later, on April 3, 1974, Commission Agent Ronald Ewert met with Markham at Johnny's Discount. Markham expressed interest in buying cases of cigarettes at a maximum price of $2.75 per carton. Ewert agreed to that price, on the condition that Markham would make him a good deal on a shipment of batteries.

Markham stated that he knew two men working "on the docks" who in the past had supplied him and numerous other retail outlets with batteries. Because of all this activity, the "heat" was on right now, and the men were laying low. But Markham said he knew they were looking for someone who could handle "entire loads" and thereby eliminate the need to distribute the batteries to various outlets. He agreed to contact his sources.

Markham then provided Ewert with the following breakdown of types, quantities, and retail prices of the batteries his source could provide:

Battery Types	Quantity Per Case	Unit Price	Case Price
"D"	192	@ $.30	$57.60
"C"	192	@ .30	57.60
"9-volt"	72	@ .79	56.88
"AA"	192	@ .30	57.60

Johnny's Discount House was located at 7612 West 63rd Street in Summit, Illinois. Delmar Lee Markham owned this storefront and it became the base of operation for one of the largest fencing operations in the Chicago area.



Markham said that when the batteries became available, he would be able to supply all of the above items at $15 per case--cash-on-delivery.

During the next three weeks Ewert contacted Markham several times to inquire about the batteries: each time Markham said that his sources had not yet come through, but that he expected delivery any day. The Commission decided that perhaps Markham was hesitant to sell Ewert anything until Ewert had shown good faith by selling Markham the cigarettes. Accordingly, on May 3rd, Ewert contacted Markham and asked him if he would be interested in buying 150 cartons of Pall Mall regulars. Markham readily agreed. Ewert said that he and his partner would stop by Johnny's Discount that afternoon.

Agents Ewert and Howard Roos proceeded to the Thomas Slater Company, where they purchased 150 cartons of Pall Malls at $3.32 per carton for a total of $498. They then drove to Johnny's Discount Store, where Markham and his associates helped unload the van. Markham then counted out $412 (150 cartons @ $2.75 each).

Before Ewert and Roos departed, Markham asked if they could handle any Johnson & Johnson products. Markham said that he had handled these products often in the past, that they were "good movers," and that the cost to Ewert would be 30 percent of the retail value. Ewert told him that he would check to see if he could find an outlet.

Four days later, on May 7th, Markham phoned Agent Ewert on the Commission's undercover office phone and told him that 92 cases of type "C" Union Carbide batteries were available, at Markham's stated price of $15 per case. Ewert replied that he would pick up the batteries the following day; Markham said no, he did not want to have to store them overnight. The batteries would have to be picked up today. Ewert then told Markham to meet him and his partner at the Commission's undercover warehouse, Ross Discount, at 6:30 that evening.

Several hours later, the Commission's first major buy from Markham was completed. Markham met Ewert and Roos at the warehouse as planned. Ninety-six cases of Eveready flashlight batteries, size "C", stock number 935-2, were transferred from Markham's van to the warehouse. Markham was paid $1,440 (96 cartons @ $15 each) in monies provided by the Union Carbide Corporation. These batteries, which at the time would have retailed for $5,529.60, were later returned to Union Carbide.

The following day, on May 8th, Markham again called undercover Agent Ewert and told him that he had just received 300 cases of Johnson & Johnson band-aids and 100 cases of Johnson & Johnson baby shampoo in 16-ounce bottles. The band-aids retailed, he said, for $31.32 a case; his price would be $10 a case, or $3,000 for the 300 cases. Ewert told Markham that he would try to find a buyer, but that first he would like to have a sample case of both the band-aids and the shampoo. Markham agreed, and Ewert went to Johnny's Discount Store and picked up one case of each.

Later that day, the Commission contacted the Director of Security at Johnson & Johnson, who visited our office to view the sample cases. After inspecting them, he offered to cooperate with our investigation by providing the money for additional undercover purchases. On May 9th, Agent Ewert negotiated the purchase of 30 cases of band-aids for $300. On May 15th, Ewert bought another 50 cases of Johnson & Johnson band-aids for $500.

In the following two months the Commission negotiated several other similar deals with Markham. Then, on July 22nd, informant Pollakov, under our instructions, attempted to penetrate Markham's operation even further.

On that date, Pollakov arrived at Johnny's Discount Store, his car loaded with 100 cases of Alberto-Culver VO5 conditioning hair dresser. There, Pollakov met with Markham and Aldo Mazzone, one of Markham's associates. After selling them the merchandise for $250, Pollakov began playing on Markham's sympathies: he had been down on his luck; he needed work; he would do anything Markham asked. Within a few hours Pollakov had persuaded Markham to "put him on the books"--pay him a salary for income tax purposes. Markham would issue Pollakov a check each week for $125; then Pollakov would have to pay Markham $25 and sign the check over to him. Pollakov would receive the balance in cash.

During the next few weeks Pollakov worked undercover in Markham's store and reported to the Commission offices almost daily for debriefings. Inside the store, Pollakov cut boxes, made signs, and organized the stock. We provided Pollakov with supplies of Alberto-Culver products, which he sold to Markham. In return, Markham sold Pollakov hundreds of cases of stolen Johnson & Johnson products and Union Carbide batteries.

Often, Markham sent Pollakov to pick up shipments of stolen merchandise from truck drivers, and in this way Pollakov was able to learn the identities and activities of a number

of drivers, dockworkers, and warehouse foremen involved in theft and fencing: Theodore Macis, truck driver for Motor Express; Charles Schultz, receiving manager for Barton Chemical; Esteban Nieves, truck driver for Gordon Transport; Roy DiGrazia, foreman for Lake River Terminals; Rufus Cathey, driver for R & R Trucking; Richard Berdine, dock worker for Johnson & Johnson. Several of these individuals were subpoenaed to testify at the Commission's subsequent public hearings. Macis and Nieves initially refused to testify and were later compelled to do so under a grant of immunity *(See Chapter 5 for testimony)*.

Esteban Nieves was involved in the Union Carbide battery thefts. Although he invoked his 5th Amendment privilege at our public hearings, he told Pollakov that there were about five drivers in on the Union Carbide deal, and he complained that too many of the drivers had become greedy--they wanted to steal 10 skids a day. According to Pollakov, Nieves believed in maintaining a low profile. He told Pollakov that he made about $3,200 a day on these "deals" last year, that although he had enough money to pay cash for his house, he kept his money in a safety deposit box and drove an old car. Stick with Markham, he told Pollakov, and you will make a lot of money.

Theodore Macis, who also refused to testify, explained to Pollakov exactly how he stole merchandise from the Johnson & Johnson plant on 65th Street in Bedford Park. He would leave the plant with a full load of merchandise. He would then drive to a Johnson & Johnson facility in LeMont, where the dockworker would unload only half of the goods. Macis would then drive to the Abco Maintenance Service Company, where he would transfer the remaining half-load to Markham's truck.

Pollakov also met Charles Schultz, the receiving manager for Barton Chemical Company. Schultz allowed stolen shipments of Union Carbide batteries to be stored on the Barton Chemical Company premises--for which Schultz charged $20 per skid. Schultz also sold Pollakov hundreds of cases of Barton products for $1.00 per case.

And Pollakov met Rufus Cathey, a self-employed cartage driver who stole hundreds of cases of Wylers Lemonade from the Chi Warehouse Corporation and sold them to Delmar Lee Markham.

After a few weeks of working undercover for Markham, Pollakov's activities took a dramatic turn. He went to work for Peter Gushi at Gushi's Family Bargain Center--a move which led to the Commission's discovery of the Purolator robbery

An associate of Delmar Lee Markham, Paul Knight, delivers $11,900 worth of stolen American Express travellers checks to former Chief Investigator Howard Roos. The delivery was made right outside the Commission offices while another Commission agent photographed the transaction.

plans. The details of our penetration of Gushi's organization will be discussed later, but first we shall complete our discussion of Markham by relating three final important transactions.

On August 20, 1974, Chief Investigator Howard Roos, who Markham knew as Ewert's partner (Mr. Ross), received a telephone call from Markham on the Commission's undercover phone. "What do you know about travellers checks?" Markham asked Roos. Markham said he had $11,900 worth of travellers checks which had been "back-doored" out of a bank, and he would sell them for $5,000. Roos asked Markham for the identifying number on one of the checks; then he called the American Express Company.

American Express officials told Roos that the checks were part of a $10,000 armed robbery at the Bank of the Commonwealth in Sterling Heights, Michigan, on July 27, 1974. Roos explained the nature of our investigation and American Express agreed to provide us with $2,500 to buy the stolen checks.

Roos called Markham back and told him that the stolen checks were "extremely hot" and that Roos' contact would offer only $1,500. Markham refused. Roos offered $2,000, then $2,500. Markham still refused.

On August 29th, Roos and Markham agreed on a purchase price of $3,000. Arrangements were made for Markham's associate to deliver the checks to the corner of Washington and Franklin Streets in Chicago (the Commission's address), where Roos would make payment in return for the checks. At 2:00 p.m. that afternoon, with Agent Ewert taking still photographs of the entire transaction, Roos purchased the stolen checks. The driver of the vehicle who delivered the checks was one Paul D. Knight of St. Louis, Missouri.

After the buy was made, the Federal Bureau of Investigation was informed of the entire matter. The Bureau agreed not to make any arrests until the completion of our investigation.

On July 24, 1974, the Douglass-Dunhill Company at 4125 West Frontage Road in Oak Forest, was the victim of an armed robbery involving, among other items, thousands of Cordura wristwatches. In the course of the Commission's fencing investigation, we learned of the availability of these watches on the street. We contacted the insurers--the Travelers Insurance Company--which provided the Commission with the funds necessary to make a number of substantial undercover purchases. Ultimately, the Commission recovered 2,995 Cordura watches through several separate purchases. One such buy was from

Commission undercover agents, Howard Roos and Ronald Ewert, receive 1,767 stolen Cordura watches from Delmar Lee Markham and his associate, for which they paid $12,313. Pictured from left to right are Howard Roos, Ronald Ewert, Delmar Lee Markham, and Paul Knight. *(Photograph courtesy of the Illinois Department of Law Enforcement--Division of Investigations.)*

Delmar Lee Markham, who sold Agents Ewert and Roos 1,767 assorted Cordura watches at $7 each, for a total of $12,313.

Perhaps the most important discovery regarding Markham's operation took place on September 17th, when Agents Roos and Ewert met with Markham to discuss the possibility of buying Markham's discount store. During the course of their discussion, Markham, in an effort to show how profitable the store was, produced two sets of financial records. One set of books detailed the store's actual income; the other showed an income equal to approximately 25 to 30 percent of the store's actual business. Markham told the agents that they were welcome to take the books and review them, but that he needed them back.

Roos and Ewert brought the books to the Commission's office, where Markham's records were both Xeroxed and photographed. These books revealed that during the period of April through August, 1974, Markham's actual gross sales totaled $176,237. Markham, however, reported gross sales of only $37,157. Consequently, whereas he should have paid a State retail occupation (sales) tax of $8,811, Markham paid only $1,857. Thus, he evaded paying $6,954 in State sales tax. *(See Appendix A for a sample of Markham's double bookkeeping.)*

The end for Markham and Johnny's Discount Store came on October 28, 1974, when he was arrested by the Illinois Bureau of Investigation based on information provided by this Commission. When the arrest took place at his store, Markham was in the process of trying to sell Agent Ewert a shipment of stolen radios.

Markham plead guilty and was convicted for evasion of State sales tax, the sale of the stolen travelers checks, and the sale of the stolen Cordura watches. He was sentenced in the Cook County Circuit Court to 1 to 3 years in the State penitentiary.

The Family Bargain Center, located at 6631 West 111th Street, was owned by Peter J. Gushi, an individual with an extensive criminal record. Gushi funneled an assortment of stolen merchandise through this store. This store was also the site for numerous planning meetings of those involved in the Purolator burglary.

Chapter 3

PETER J. GUSHI AND THE PUROLATOR BURGLARY

The name Peter J. Gushi is one which this Commission has been familiar with for many years. Born in 1927, a longtime resident of Oak Lawn, Gushi has been a known associate of underworld figures for more than two decades, and he has a lengthy arrest record.

In 1954, Gushi was convicted of trafficking in heroin and spent two years at the Federal Correction Institution in Milan, Michigan. On April 20, 1959, he was arrested for burglary, but found not guilty. On September 5, 1961, he was convicted for his involvement in a truck hijacking of cigarettes, cigars, and razor blades valued at $75,000. Gushi received a $5,000 fine and a 10-year term at Leavenworth Penitentiary--where he tried unsuccessfully to hang himself. He was released on July 28, 1965. Three years later, on July 13, 1968, Gushi was indicted with three others for conspiracy to defraud the National Bank of Hyde Park--an alleged scheme to get money for the mob's juice loan racket. But Gushi was not convicted.

The Commission's surveillance of Gushi in the fencing investigation was again initiated by informant Martin Pollakov. It happened almost accidently. On July 20, 1974, Pollakov made a routine telephone call to Jamie's Discount Store, where he had once worked for owner James Moccio. Pollakov was hoping to learn something about Moccio's recent activities.

But Moccio wasn't in. Instead, a man by the name of Allen M. Wainer--who Pollakov had met a number of times in the past--answered the phone. Wainer, born in 1905, has a police record which began in 1935. He has been arrested numerous times for conspiracy to violate Internal Revenue Service laws, and he has served prison terms for conspiracy to transport stolen property and for counterfeiting postage stamps.

Pollakov engaged Wainer in conversation; Wainer told him that an individual by the name of "Pete" was soon going to open up a discount store--and that he, Wainer, was going to "back" the store. Wainer also said that Pete could probably use Pollakov's help in setting up the store and he gave Pollakov a telephone number, suggesting that he give Pete a call.

Pollakov called Pete, and as soon as Gushi learned that Wainer had recommended him, Gushi offered Pollakov a job. Gushi explained that the store would be legally owned by one John Valentino, but that he, Gushi, would run the store. Gushi admitted to Pollakov that he knew very little about this kind of business, and he welcomed Pollakov's help. They arranged to meet four days later.

Pollakov relayed this information to Commission investigators, and then on July 24th drove out to meet with Gushi as scheduled, at 6631 West 111th Street, the site of the future Family Bargain Center. There Pollakov was introduced to John Valentino. The three men took a tour of the store and discussed floor plans, shelving, and other work which would be necessary to make the place ready to open. Then they went out for lunch at the Executive Club Restaurant, 10436 Southwest Highway.

Pollakov described to Gushi and Valentino his past experience in the discount store business, and then asked about the merchandise they planned to use in the store: "legit or illegit?" Gushi replied: "We'll go with the hots." Gushi went on to tell Pollakov about some of the thieves and fences they would be dealing with, and when Pollakov mentioned that he could get quantities of Alberto-Culver VO5 hair conditioner, Gushi jumped at the chance. The luncheon meeting broke up, with Pollakov agreeing to go to work for Gushi, on the condition that Gushi would allow him to work independently as well.

This meeting took place right around the time that Pollakov had agreed to work for Delmar Lee Markham, so for the following two weeks Pollakov failed to contact Gushi. Finally, on August 8th, Gushi called him at his residence and demanded an explanation: Pollakov apologized, and told him that he was out hustling, that he owed Markham and Aldo Mazzone some money, and that they had "whistled him in" because they knew he could get the Alberto-Culver products. Gushi blew up: "From now on," he told Pollakov, "if anyone asks you, you're working for Pete Gushi and you are working for the family."

For the next six weeks Pollakov showed up at Gushi's store almost daily, serving as store manager, handyman, and errand boy as they prepared for the opening of the Family Bargain Center. Pollakov sold Gushi hundreds of cases of All-Set Hair Spray and Alberto-Culver VO5 hair products--merchandise which was purchased by the Commission. But since Gushi thought it to be stolen, Pollakov's credibility remained high.

Gushi also used Pollakov to negotiate buys from other fences and boosters. And occasionally, when Gushi had a load of merchandise which he wanted to sell, Pollakov would "arrange" to dispose of the goods to his friends--that is, Commission agents. The most important of these involved the sale of Cordura wristwatches.

In mid-September, Gushi told Pollakov about the availability of several thousand wristwatches which James Maniatis (a close friend of Gushi's, also with an extensive criminal record) was trying to purchase through a source. (These are the same Cordura watches which had been burglarized from the Douglas-Dunhill Company of Oak Forest and which the Commission later purchased from Delmar Lee Markham.) Pollakov, after relaying this information to the Commission, told Gushi that a friend of his, a Mr. Ross, might be interested in buying as many of the watches as Gushi could get.

Maniatis negotiated to buy the watches for $5.50 each; Roos, in turn, negotiated with Gushi to buy 500 watches at $9 each.

On September 23rd, Pollakov left the Commission offices with $4,500 in funds obtained from the Travelers Insurance Company. He arrived at the Family Bargain Center, after which he and James Maniatis drove to a garage in Crestwood. There they met with Maniatis' source, later identified as one Charles P. Soteras, who transferred 500 Cordura watches from his car to Maniatis' car. Pollakov gave the $4,500 to Maniatis, who in turn paid Soteras $2,750 (500 watches at $5.50 each). The remainder of this money was given to Gushi, and Pollakov brought the watches to the Commission office. In addition, arrangements were made for an identical purchase on the following day.

This undercover purchase was repeated on September 24th, and then again on September 27th. All told, the Commission returned 1,500 stolen watches to the Travelers Insurance Company.

By mid-September the Family Bargain Center had still not opened; in fact, it would not open until October 5th. Each morning Pollakov would report to the Commission office around 7:30 for a debriefing. Then he would pick up Gushi, or drive to the store and do some work until Gushi arrived. Then Gushi would suggest going out to breakfast. Upon returning to the store, Gushi would spend an hour or two telling stories or talking on the telephone. And before long he would suggest going to lunch--an event which sometimes lasted several hours. The truth is, as Pollakov often

reported, that Gushi was lazy. And he liked to drink and eat out and talk. As it turned out, these habits proved most unfortunate for Mr. Gushi, and most fortunate for the Commission.

On September 13, 1974, Pollakov picked up Gushi at his home at 9:30 a.m. and then drove to a nearby diner for breakfast. The topic of Gushi's conversation that morning was a meeting he had the previous day with Charles Marzano and a few of Marzano's friends.

Gushi said that the meeting, held in the afternoon at the Southwest Inn, was interrupted because "the place was all steamed up...surrounded by Illinois Bureau of Investigation agents." This information, he said, came from Marzano, who kept in his possession a police radio monitor. The meeting therefore broke up, and Gushi said that he met with Marzano at 9:30 that night at Niko's Restaurant on south Harlem Avenue. But he did not tell Pollakov the reason for the meeting.

After finishing breakfast Gushi and Pollakov drove to the Holiday Inn at Madison and Halsted Streets, where they met Allen Wainer. A number of topics were discussed relating to the discount store: Gushi told about a recent purchase of Eveready batteries and Alberto-Culver VO5 tubes. Then Pollakov overheard Gushi tell Wainer: "I saw Charlie last night. Something's wrong with the mileage on the map and we may have to rent a plane. We got to go around Cuba. We got to rent a plane--Charlie's a pilot." Wainer simply replied that they should rent a plane.

Then Gushi asked Wainer if he knew "the guy from Boston." Wainer said: "Yeah, Louie DiFonzo."

Gushi and Pollakov then left the Holiday Inn and proceeded to the Southwest Inn, where Gushi had to pick up some personal belongings left there the day before. Gushi explained that those present at the previous day's meeting had emptied their pockets and given the contents to the bartender, and that when the meeting ended abruptly, Gushi did not have time to retrieve his belongings.

While driving to the Southwest Inn, Gushi told Pollakov that either the coming Sunday (September 15, 1974) or three weeks from the coming Sunday (October 6th), Gushi was going to be part of "one of the biggest cash scores that ever hit this country." He added: "I am sick and tired of being poor all my life, and now I'm either going to be a rich man or a dead man."

Gushi also told Pollakov that in 1971 he pulled a score for $135,000 and two months later he was broke. He said that in 1952 he was involved and indicted in a dope ring investigation. He served a one-year term and made a vow to God never to deal in dope again as long as he lived, because "I hate dope so much."

When informant Pollakov reported to Commission investigators the next morning Gushi's boast about the impending huge cash score, we passed this information along to the Illinois Bureau of Investigation (IBI) and recommended that the agency initiate a continuous surveillance of the Gushi-Marzano-Maniatis group. At that time the IBI had been conducting occasional surveillance of these individuals in connection with our fencing intelligence, and IBI officials agreed to increase their study of these suspects.

At the same time, the Commission decided to attempt a deeper penetration of Gushi's operation. Agent Edward Doyle, who had been working closely with Pollakov and who Gushi knew only as Pollakov's friend "Eddie," began accompanying Pollakov to the store--"hanging around," mopping floors, dusting shelves, and especially playing dumb. He became known as "Eddie the Mope," source of amusement to Gushi, who poked fun at Eddie's sloppy dress and manner. Eddie played dumb and kept his ears open.

During the days following Gushi's disclosure about the impending score, Pollakov and Eddie continued to eavesdrop. On September 16th, Gushi, Marzano and Wainer had an afternoon-long meeting in the rear of the store. They were heard complaining about surveillance at the Southwest Inn, and they agreed to change their meeting place to the Holiday Inn in Hillside. Eddie also heard Marzano state: "I want 44 percent."

On the morning of September 21st, Eddie heard Gushi take a telephone call from Luigi DiFonzo. He gave DiFonzo the directions to Harvey's Restaurant, 5600 South LaGrange Road in Countryside, and told him that he and Marzano would meet him there later. "Charlie is late," Gushi told DiFonzo. Marzano arrived at the store a short time later, and then he and Gushi departed for Harvey's Restaurant.

September 24th, Pollakov sat in on a breakfast meeting with Gushi, Charles Marzano and his cousin, William "Tony" Marzano. Charles Marzano told Pollakov they wanted him to purchase a van for them. Marzano said that he would supply Pollakov with a phony driver's license for identification in buying the van, and he also described the kind of van he

wanted: it had to have windows so it could be driven on boulevards, and it had to be a light color so it could be seen at night.

The following day, September 25th, Pollakov and Agent Doyle arrived at the store at 10 a.m. Gushi and Marzano huddled in the rear of the store, speaking in whispers. Gushi received a telephone call from Luigi DiFonzo, who was told to meet Gushi and Marzano at the Hickory Hills Country Club at 2:00 p.m.

That night Pollakov received a call from Gushi at home. A used van had been found for sale by a woman in Summit. Pollakov was told to come to Gushi's house at once; Gushi would give him the fake driver's license; then Pollakov would go check out the van. If it looked good and was within the $2,000 range, Pollakov should buy it.

Pollakov arrived at Gushi's home a short time later. Gushi explained that unfortunately he had not been able to get in touch with Marzano, who had the phony driver's license. Thus, the van could not be bought that night. The delay upset Gushi. He told Pollakov: "this van is going to bring back around $2,000,000." He also said he was 80 percent sure he would be leaving town Monday (September 30th) for two weeks.

On the following day, September 26th, Pollakov arrived at the store at 9:30 a.m. and was informed of a change in plans: rather than buy the used van, they were going to buy a new one. Pollakov then accompanied Gushi and Marzano to Hawkinson Ford, 6100 West 95th Street in Oak Lawn. Upon arriving, Marzano walked over to a mint green 1974 Ford Econoline van and told Pollakov: "This is the one I want you to buy." In his hand, Marzano had a piece of paper with the van's stock number: 7646. The three men then returned to the Family Bargain Center where, later that afternoon, Marzano gave Pollakov a driver's license with the name Charles Russo. "Here's the license I want you to buy the truck with." He gave Pollakov $500 in cash and told him he would get the rest of the money tomorrow.

The next day, September 27th, Pollakov and Eddie met for breakfast with Gushi and James Maniatis. Gushi then informed the group that he wanted Maniatis to purchase the van in his own name. Maniatis expressed displeasure at this change of plans, noting that he was having problems with the Internal Revenue Service. Gushi admitted that the van was going to be used for something which could be extremely risky,

but that if anyone should ever ask Maniatis about the van, Maniatis should say he sold it to Gushi. Gushi then gave Pollakov $3,900.

At 9:00 a.m. Pollakov, Agent Doyle, and Maniatis drove to Hawkinson Ford and there they bought the mint green Ford Econoline van. Maniatis recited the information on his driver's license, refusing to show it to the salesman.

Later that afternoon, when the van had been transported to the store, Marzano went out to inspect it. He checked the engine oil and the interior. Marzano noticed some glue had spilled near the right front door, and he told Agent Doyle to clean it off. Doyle obeyed. He removed the glue and scratched an identifying mark under the right front wheel well.

On Saturday, September 28th, Pollakov arrived at Gushi's store--which was still a week away from opening its doors to the public. On this day, Gushi was on edge. First, he had a verbal fight with two longtime associates. Then, a cash register salesman came to the store looking for John Valentino. Gushi said that he was John Valentino. When the cash register salesman challenged this assertion, Gushi flew into a rage and threatened to kill the cash register salesman. He had to be restrained by the same friends who had just been the victim of Gushi's verbal abuse.

When everyone else had departed, Pollakov took Gushi to the rear of the store and tried to calm him down. They had a few drinks. Then Gushi said that either tomorrow (Sunday, September 29th) or three weeks from Sunday (October 20th, he would be involved in the biggest cash score in the history of the country. It would definitely be on a Sunday night, he told Pollakov, adding: "You'll read about it in the Monday morning newspapers."

When the men departed that Saturday afternoon, Gushi told Pollakov that there was a good chance he would be out of town on Monday. He said that if everything comes off, he would be "basking in the sun for about two weeks," after which he and his partners would "bring the money back in burlap bags."

However, on Monday, September 30th, when Pollakov reported to work at the Family Bargain Center, Gushi was at the store, along with Charles Marzano and James Maniatis. When Pollakov mentioned to Gushi that he had not gone out of town as anticipated, Gushi replied that it would be a few more weeks. Marzano then told Pollakov that he wanted him to pick up a set of license plates for him.

On October 2nd, Pollakov and Agent Doyle drove to Hawkinson Ford where they picked up a license plate package. The packet contained the Illinois registration tag for the vehicle listed under the name Jim Maniatis, 7235 West 110th Place, Worth, Illinois, and a bill of sale for the vehicle listing the total cash price of $3,887.

Gushi's only comment of relevance that evening was that the "planned score" would take place in a week to ten days. "We're only waiting for the telephone call," he said.

On October 5th, the Family Bargain Center finally opened. Only a handful of customers came into the store. In the afternoon, Pollakov went out, on instructions from Gushi, and bought $300 worth of stolen clothing with a retail value of $500.

On October 8th, shortly after arriving at the store, Pollakov was again sent to Hawkinson Ford to pick up a new set of plates for the van--Illinois license plate number 56174B. Pollakov then went to the Worth village hall and bought a vehicle sticker (number 1590). Upon returning to the store, he gave both the plates and the vehicle sticker to Charles Marzano.

In a conversation that day with Pollakov, Marzano stated that he could have purchased all of the stolen Cordura wristwatches himself if he had wanted to, but that a $25,000 profit did not mean much to him since he had "bigger scores" in the offing.

Pollakov did not return to work at the Family Bargain Center for the next ten days, partly because of a minor disagreement with Gushi, partly because he began to fear that Gushi was becoming suspicious of him. On Friday, October 18th, he returned to the store, and although Gushi was angry at his absence he showed no signs of suspicion--nor did Charles or Tony Marzano. The main thing Pollakov remembers of that day is that Gushi received, and made, a number of telephone calls to someone in Florida.

The Illinois Bureau of Investigation maintained a careful surveillance of the group for several weeks, but when no major burglary occurred on Sunday, October 13th, the Bureau informed the Commission that it did not have sufficient manpower to continue such an extensive surveillance any longer.

The $4,300,000 burglary of Purolator Security, Inc., at 127 West Huron Street in Chicago occurred on Sunday night, October 20, 1974. The Illinois Bureau of Investigation, armed with the intelligence gathered by this Commission, promptly informed the Federal Bureau of Investigation of the names of

the suspects and of their probable destination in Florida. Immediately, the crime became a sensational news story. First reports put the robbery at only $1,000,000, but every day for the first week the public awakened to see a new, higher estimate bannered across the morning dailies. And each day, a startling new detail or unanswered question tantalized curiosity:

LINK BOMBINGS AND $3.8 MILLION HEIST

BIZARRE TWISTS TO $3.9 MILLION THEFT FROM VAULT

FBI ACCUSES GUARD IN $4 MILLION HEIST

VAULT LOSS SET AT $4.3 MILLION

REVEAL GANG BOAST BEFORE VAULT THEFT

By this time Chicagoans were keeping abreast of the burglary through constant news reports, and as speculation about the thieves' whereabouts increased, the media provided detailed feature stories. Within a week it was reported that they had flown to Grand Cayman Island in the British West Indies, where banking transactions are kept more secret than in Switzerland. Customs officials reported seeing a man entering the island with three suitcases full of United States currency, so heavy he needed two porters to help carry them. Waiters, cabdrivers, and bellhops reported that the suspects were wining and dining extravagantly, paying for everything with $100 bills.

Back in Chicago, the guards on duty the night of the crime failed a lie detector test. Against his will he was released. "What are you trying to do, get me killed?" he reportedly asked police. Two days later he was picked up again and sent to a county jail--where he promptly tried to kill himself twice. He was placed in a prison hospital--in good health. The following day nurses found him in a coma, near death, and that is a mystery which has never been solved. "An inexcusable breakdown in security," charged the Chicago Sun-Times. "An astonishing dereliction of duty."

It took only 10 days for the Federal Bureau of Investigation to apprehend the other five suspects: Charles and Tony Marzano, Peter Gushi, Luigi DiFonza, and James Maniatis.

The Purolator Security guard, Ralph Marrera, was the only figure the Commission had not identified in advance--because Charles Marzano had not disclosed to any of the other conspirators the intended target of the burglary. In fact,

Marzano and Marrera's planning and execution of the burglary was so shrewd that had it not been for the Commission's undercover penetration of the ring, it is quite possible that the burglary would have been completely successful. And even though they were caught, the thieves still succeeded in burying half of the money.

Based on our own intelligence and on testimony presented at the federal trial, it is now possible to explain how the burglary was committed. First of all, they planned it for a Sunday night because it was the day that the fewest guards were on duty--and Marrera worked only every third Sunday. And Marrera's strategy was this: for several months prior to the crime, he managed to dwindle the small Sunday guard staff even further by suggesting to co-workers that they leave early if they wanted to--and they usually did.

Marrera also obtained the combination to the main vault; in fact, it was not difficult to obtain, and most of the guards knew it. Even so, the vault door cannot be opened without setting off an alarm on the switchboard of Wells Fargo Alarm Service--the firm hired by Purolator to respond to any suspicious signals. Why, then, did not Wells Fargo respond when the vault door opened on the evening of October 20, 1974?

For a time, investigators could only theorize that Charles Marzano, a known electronics expert, had simply compromised the alarm system before opening the vault door. About a year prior to the Purolator burglary, both Marrera and Marzano had been suspects in a $800,000 jewel robbery in Evanston, and on that occasion police had raided Marzano's home and found sophisticated electronic equipment and manuals. And Marzano had installed the alarm system for Gushi at the Family Bargain Center.

But in fact, Marzano did not tamper with the Purolator alarm system. Rather, it was the cunning of Ralph Marrera who devised a scheme which completely tricked the Wells Fargo Company--a firm with long experience in the business.

One night about a month before the burglary, Marrera quietly walked over to the main vault, worked the combination, opened the vault door, and then closed it. Immediately a Wells Fargo official telephoned and asked Marrera what the problem was. "What problem?" Marrera asked. The Wells Fargo official explained that a certain light had illuminated on the switchboard indicating that a vault door had opened. Marrera assured him that everything was quiet, but the official said he would send someone over anyway, just as a precaution. A short time later the Wells Fargo man arrived at Purolator, inspected the premises, found nothing wrong, and left.

A week later Marrera again opened and closed the vault door, again Wells Fargo telephoned, and again Marrera said that nothing was wrong. The Wells Fargo man came over, inspected the place, and left. A week later Marrera repeated the procedure; Wells Fargo called and was told nothing was wrong--and this time no one came to double-check. This is precisely what happened on Sunday, October 20th, when Charles Marzano and his cousin, Tony, opened the vault door and loaded $4,300,000 into the mint green Ford Econoline van.

They took only "used" money--stacks of bills dropped off that day from Hawthorne Park Race Track. Then, they tried to burn more than $20,000,000 in new currency. This was a mistake: the fire died from lack of oxygen shortly after the vault door was closed, and the $20,000,000 was barely singed. Clearly, the burglars had hoped that if the police found only ashes in the vault they would have no way of knowing that a robbery had occurred.

After dropping off some of the loot in a Chicago-area hideout, the Marzanos, Gushi, and DiFonzo drove straight to Columbus, Ohio, where they rented a Lear Jet for the flight to Florida. They spent the night in Miami celebrating. But the following morning the Miami newspapers carried front-page stories not only about the burglary itself, but about several of the suspects: specifically, Charles Marzano and Ralph Marrera. By Wednesday, October 30th, all six suspects had been apprehended, although DiFonzo successfully deposited $1,100,000 in five of Grand Cayman Island's 184 banks.

Both informant Martin Pollakov and Investigator Edward Doyle testified at the federal trial. They explained in detail the conversations they overheard while working in Gushi's store, the boast about the "huge score," and the purchase of the Ford van. Peter Gushi also testified substantiating much of the testimony provided by Pollakov and Doyle. Gushi was given a 4 to 7-year prison term, and was put in the custody of the United States Marshal. Pollakov was also given protective custody and a whole new identity. He was also presented with the $40,000 reward from Purolator Security.

James Maniatis plead guilty to obstruction of justice and possession of stolen property (the latter charge arose from his sale of the Cordura watches); he received a 1 to 3-year sentence. William Anthony Marzano plead guilty, but refused to testify or otherwise cooperate with the government: he was sentenced to seven years in prison. Charles Marzano plead innocent, was found guilty and sentenced to 20 years in prison (recently reduced to 15 years). Luigi DiFonzo, who admitted he was hired to deposit a large sum of money in

Grand Cayman banks, claimed he did not know the cash was stolen; he was found innocent. And Ralph Marrera, the guard who was found mysteriously in a coma shortly after the theft, was declared mentally unfit to stand trial.

As for the money, $1,400,000 was recovered from beneath the newly-poured cement floor of Marrera's grandmother's basement. But the rest is gone: $400,000 was surrendered by Gushi (so he claims) to some underworld figures two days after the crime. $1,100,000 remains stashed away in the Grand Cayman banks, although the government has been trying to get at it for two years now. And another $1,500,000 is still missing to this day.

Chapter 4

OTHER SUBJECTS

Francisco Perez and Rolando J. Correa

The Commission was told by an informant that one Francisco Perez, 3026 West Belden in Chicago, was selling various types of hobby craft merchandise which he had stolen from his employer, Colman Hobby Distributors, Inc., 2100 North California in Chicago.

A telephone call placed by Agent Ewert to Perez on January 29, 1974, resulted in a meeting between the two, at which time Perez showed Ewert a sample of the goods he had available: an electric train set, a Cutty Sark Model sail boat kit, several model airplanes and cars. Perez told Ewert that "Of course it's hot, but you don't have to worry about it." He said that he generally sells the stuff for 50 percent of the retail value, but that if Ewert wanted large quantities, he would get a much lower price. Perez suggested that Ewert call him in a few days, at which time Perez would introduce him to his partner, Rolando Correa, 2208 North Sacramento in Chicago.

The Commission then met with two officials of Calman Distributors who verified that both Perez and Correa had been working in shipping and receiving at Calman for about six months, and that the type of merchandise being sold by the two men was indeed inventory at their plant.

Further negotiations with Perez and Correa followed, and Ewert agreed to purchase a quanitiy of goods for $1,000. On March 11, 1974, agents Ewert and Roos along with Illinois Bureau of Investigation (IBI) agent Richard Tetyk drove to Perez's residence in a rented Ford van. Perez, upon seeing Ewert's partners, became suspicious--he "didn't like the set-up." To alleviate Perez fears, Roos and Tetyk exited the van, telling Perez that he would be paid when he returned with the merchandise.

Ewert and Perez then met Correa, and the three of them proceeded to load the van with a wide assortment of hobby craft toys. Because some of the merchandise was missing, Perez and Correa agreed to lower their price from $1,000 to $750.

Agent Ewert, Perez, and Correa then returned to meet Agents Roos and Tetky. Ewert opened the rear door of the van to show his "partners" the acquired goods. At that moment,

Peter J. Lotus, pictured on left, is delivering 123 cases of Excalibur Car Wax at $15 a case to Commission informant Martin Pollakov. This stolen merchandise consisted of 18 cans per case with a retail value of $5 per can. The car wax was delivered to the Commission's undercover warehouse. *(Photograph courtesy of the Illinois Department of Law Enforcement--Division of Investigations.)*

as Perez and Correa were expecting payment, Roos and Tetky announced their identities and placed the subjects under arrest.

They were indicted July 23, 1974. Francisco Perez plead guilty and received 2-years felony probation on April 28, 1975. Rolando J. Correa also plead guilty and received the same sentence on August 8, 1975.

Peter J. Lotus

On July 22, 1974, informant Martin Pollakov paid a visit to Triple Discount Store, 8646 Roberts Road in Justice, owned by Peter J. Lotus. Pollakov had known Lotus from his old days in the discount business.

Lotus told Pollakov that he was in the process of closing down his store, and he offered to sell Pollakov 123 cases of Excalibur Car Wax for $15 per case (18 cans per case, with a retail value of $5 per can). Pollakov told Lotus that he would let him know soon, and then he reported this information to Chief Investigator Roos. Roos in turn contacted the Turtle Wax Company, which agreed to reimburse the Commission for the purchase of their stolen merchandise.

On August 27th, Agent Edward Doyle, posing as Pollakov's friend, purchased two cases of the wax from Lotus for $30. Then, on August 29th, Doyle purchased 123 cases for $1,845 (123 cases @ $15 each).

A week later Pollakov learned that Lotus had access to 200 Montgomery Ward sports shirts. Agent Doyle met with Lotus, and was given a sample of the shirts, which Lotus was selling for $2 each. Investigator Roos promptly contacted the Montgomery Ward Manager of Corporate Security and showed him the sample stolen shirt. This official then provided the Commission with the $360 necessary to purchase 180 of the stolen shirts--which we later returned to Montgomery Ward, along with information regarding how this merchandise was being stolen.

On October 2nd and 3rd, Agent Doyle and informant Pollakov purchased three firearms from Lotus for $285, using funds supplied by the Cook County State's Attorney's office. On October 16th, Lotus gave Agent Doyle 10 tabs of LSD, telling him that he could supply Doyle with an assortment of drugs in large quantities. We also discovered that Lotus was involved in the fencing of a large shipment of stolen motor oil.

Abraham Silver is pictured making a delivery of 108 stolen Speidel watchbands to former Commission Agent Edward J. Doyle who paid $250 for them. Silver was later arrested by the Illinois Department of Law Enforcement, plead guilty to one count of theft and was sentenced to two years felony probation.

In September, 1975, Lotus was indicted on two separate counts: one for theft, the other for delivery of a controlled substance; but both cases were later dismissed in open court.

Abraham Silver

On August 4, 1974, Chief Investigator Roos instructed Agent Doyle and informant Martin Pollakov to go to the Seven Mile Fair in Milwaukee, Wisconsin. This flea market, referred to earlier in this report, is known to be a popular place for thieves and fences to deal.

Doyle and Pollakov made a number of contacts that day, one of whom was a man named Abraham M. Silver of 6101 North Maplewood in Chicago. Silver, an elementary school math teacher, apparently supplemented his income by dealing in stolen merchandise. After purchasing a box of All Set Hair Spray and VO5 Hair Dressing from Doyle and Pollakov, Silver offered to sell them a quantity of Speidel Watchbands which, he said, he had received from a dock worker. Pollakov and Doyle told Silver they would get back to him later in the week.

On August 16, 1974, Doyle met with Silver and purchased 100 Speidel ladies' bracelets for $125. On the following day, they met again, and Silver sold Doyle 108 Speidel watchbands for $250.

Silver was arrested by Illinois Bureau of Investigation agnets on July 8, 1975. On May 19, 1976, he plead guilty to one count of theft and was sentenced to two years felony probation.

Lonza Lee Holmes and Dorothy Holmes

On July 31, 1974, a woman by the name of Dorothy Holmes approached two men having a cup of coffee at a restaurant in downtown Chicago and asked them if they would be interested in buying some wristwatches. She then produced one of the watches, an expensive CompuChron, saying "The dude working in the place grabs them, and my husband is selling them."

Unfortunately for Mrs. Holmes, the two men she approached were Chief Investigator Roos and Martin Pollakov. They, of course, told her yes, they would be most interested in buying as many of the watches as her husband could obtain. Pollakov noted Mrs. Holmes' telephone number and promised to call that evening.

Roos immediately telephoned the President of the North American Trade Association, the United States distributor for CompuChron watches and learned that a shipment of the watches sent by the United Parcel Service (UPS) had never arrived at the intended customer. Roos then contacted a UPS official, who confirmed that he had received a number of complaints regarding the missing watches, and he agreed to reimburse the Commission for any undercover purchases made.

The following day, August 1st, Roos and Pollakov met with Mr. and Mrs. Holmes in the restaurant at 300 West Washington Street. They all walked across the street to the Holmes' vehicle and bought four of the watches from them for $500. When Mr. Holmes indicated that he could also sell them guns and jewelry, Pollakov told them that he was definitely interested in buying a gun, and that he would be back in touch soon.

In a subsequent meeting with Mr. Holmes, Roos acquired the serial number of some of the guns Holmes wanted to sell; these guns, it was learned, were also stolen from a UPS shipment. Further investigation revealed that these items were being stolen by two Parcel Service employees who in turn sold them to the Holmes.

On August 7th, Pollakov called the Holmes' and told them that he wanted to meet the following morning to buy 3 pistols, 11 watches, and 2 rings. Mr. Holmes agreed to meet at a downtown mall at 7:00 a.m.

At 6:00 a.m. the next day, Roos and Pollakov met with agents from the United States Department of Alcohol, Tabacco, and Firearms, the IBI, and the UPS, at which time the group arranged plans for the undercover purchase and arrest of Holmes. Then, at 7:00 a.m. Roos and Pollakov walked across the street; the Holmes arrived moments later, carrying the guns, watches, and rings in a shopping bag. Mr. Holmes quoted a price of $1,890. Roos produced a "flash roll" of $3,000. As the three men walked toward the Holmes' car to close the deal, the IBI agents appeared and placed both the Holmes' under arrest.

Because Mr. Holmes ultimately cooperated fully with the ATF's investigation of the Parcel Service employees who sold him the stolen merchandise, the charges against Mr. Holmes and his wife were later dropped.

Peter Zaccariello

On July 12, 1974, Martin Pollakov and Commission Agent Jeffrey Green drove to Mr. Z's Discount Store, 4737 Butterfield

Road in Hillside, to meet with Peter Zaccariello. Zaccariello, an old acquaintance of Pollakov's, had recently opened Mr. Z's, and Pollakov had called him two days earlier to tell him that he was dealing in "hots." Zaccariello was more than willing to do business.

We sold Zaccariello 15 cases of Alberto-Culver VO5 Condition Hair Dressing and 5 cases of Alberto-Culver FDS, for a total of $60. In turn, we purchased from Zaccariello two cases of Johnson & Johnson Baby Shampoo, three cases of Curad Ouchless Bandages, four cases of Eveready batteries, and three cases of children's coloring books--for a total of $107.

When Pollakov asked Zaccariello if the coloring books were "legit" Zaccariello replied: "I don't deal in anything that's legit."

Diane Dearing

On several occasions when Martin Pollakov was working as a Commission informant in Peter Gushi's discount store, he dealt with a shoplifting team named Diane Dearing and Eugene Falco. On August 29, 1974, Pollakov, along with Agent Edward Doyle, arranged for Dearing and Falco to sell their stolen merchandise to Chief Investigator Roos (Mr. Ross) at the Commission's undercover warehouse. The Commission, in turn, relayed this information to the Illinois Bureau of Investigation, which agreed to conduct a surveillance of the subjects' activities.

At 1:15 p.m. on August 29th, Falco and Dearing were observed entering the parking lot at the Montgomery Ward store at 36 South LaGrange Road in LaGrange. Falco remained in his car; Dearing, wearing a loose maternity blouse, went into the Ward store and returned minutes later with her blouse bulging. She reentered Falco's car and deposited the merchandise on the back seat.

This same procedure was repeated at the following stores: Golden Rexall Drugs, 10201 Roosevelt Road in Westchester; Jewel Food store, 507 West Woodlawn in Lagrange Park; Jewel Food store, 2001 Roosevelt Road in Broadview; Walgreen's Drugs, 1700 Roosevelt Road in Broadview; Walgreen's Drug Store, 1200 Winston Plaza in Melrose Park; and Walgreen's Drug Store, 1600 North Harlem Avenue in Elmwood Park.

At 5:00 p.m., Dearing and Falco drove to the Commission's undercover warehouse at 3409 West Lake Street in Melrose Park, where Roos and Doyle helped them transfer the goods from their car to the warehouse. Dearing sorted the items, usually pharmaceuticals, into neat, even rows: pills, powders, mists,

Shoplifter Diane Dearing displays her collection of cosmetics, vitamins and razors to former Commission Agent Edward J. Doyle and former Chief Investigator Howard Roos. The total retail price for her day's haul was $1,086. *(Picture courtesy of Illinois Department of Law Enforcement--Division of Investigations.)*

sprays, lotions, notions, ointments, razors, and vitamins. She recorded the retail price of each item, divided it by three, and rounded that figure off to the nearest dollar. The total retail price of the day's haul was $1,086. The price for "Mr. Ross" was $362.

In order to avoid arrest, Dearing cooperated with the Commission by providing us with the names of more than 25 Chicago-area fencing operations.

Victor J. Colletti

In early August, 1974, Chief Investigator Roos received a telephone call from an informant who had provided Roos with reliable information in the past. This time, the informant, in need of a favor, related the following story.

Seven years before, a crew of burglars, specializing in stamp collections, had broken into a home and walked out with $350,000 in cash, $250,000 in gold coins, and $100,000 in covers. (Stamp collectors accumulate loose stamps and covers, which are stamped envelopes.) The cash and the coins, he said, were long gone, but the stamps--because they are so well-known to stamp experts and difficult to dispose of--were still available and in the possesssion of a middleman.

What the informant wanted was for Roos to locate the original owner of the stamp collection and to negotiate a buy-back. The money would then be divided between the middleman, the informant, and Roos. (Apparently, it was the informant's belief that since seven years had elapsed since the theft, the statute of limitations would apply to everyone involved.)

Roos told the informant that he would try to help him--although profit, of course, was not Roos' motive. He was primarily interested in developing a better relationship with the informant and in learning the identity of the ring of thieves.

The informant provided Roos with two original covers, which Roos Xeroxed and then returned. He then contacted a local stamp expert and described the ones in his possession. It was the expert's opinion that these covers were part of a collection which had been owned by one David Baker of Indianapolis, Indiana.

When Roos finally located him, Baker denied that he had ever been the victim of a burglary involving $350,000 in cash or gold coins. He said he had been robbed of many valuable

stamps and covers a number of years ago, but that the ones described by Roos did not sound like the same ones. Baker advised Roos to contact Mrs. Maryette B. Lane, Chairwoman of the Stamp Theft Committee of the American Philatelic Society in St. Petersburg, Florida.

Accordingly, Roos then telephoned Mrs. Lane. Upon hearing a description of the covers she said she was certain they came from the collection of David Baker. In the following two weeks, Roos obtained from the informant Xeroxed copies of the entire stolen collection, which he then sent to David Baker's attorney. The attorney confirmed that the collections did belong to Mr. Baker, and that he would be interested in negotiating a possible buy-back. Roos also learned that Baker's collection had been insured by the Aetna Insurance Company which had paid Baker $86,000 for the loss.

A short time later, Roos' informant was murdered.

At that point it seemed as if Roos' efforts to retrieve the stolen stamp collection had failed. But on November 16, 1974, another informant contacted Roos--with the information that the go-between for the covers was one Victor Colletti. Colletti, he said, was dealing with two Mexicans who had burglarized the Indianapolis home and who were also responsible for the murder of Roos' previous informant.

According to this informant, the two burglars wanted $50,000 for the stamps. The murdered informant was therefore trying to get $80,000--out of which would come $50,000 for the burglars; $10,000 for himself, and $10,000 each for Colletti and Roos. Apparently, however, the murdered informant later demanded a bigger cut--the reason for his being killed.

On November 18th, Roos telephoned Colletti, telling him only that we wanted to meet him at 9:00 p.m. that night at the Pyrenees Restaurant in Skokie. He described what he would be wearing.

Colletti agreed, and that night the two men met and Roos told Colletti that he had been dealing with the murdered informant, that it was too bad he had been killed but that Roos was still interested in negotiating a deal. He told Colletti that he had a source in an insurance company who would pay $75,000 for the covers. Colletti asked if he, Roos, had been taken care of; Roos told him not to worry, the $75,000 was all Colletti's. He explained that the only reason he had ever bothered to call Colletti was that he had heard that the two burglars could supply other items, such as gold coins and stamps. Colletti said this was true.

During the next two days, as they worked out the details of the transaction, Roos had several telephone conversations with Colletti. During these conversations, Roos and Colletti agreed to meet in the safety-deposit box vault area of the Cosmopolitan National Bank--Chicago Avenue and Clark Street--at 2:00 p.m. on November 21st, at which time Roos would bring the $75,000 in exchange for the covers.

On November 20th a meeting was held in the office of State's Attorney Kenneth Gillis, attended by Roos and two investigators of the Chicago Police Department's Central Investigations Unit (CIU). They rehearsed the strategy for Colletti's arrest: the CIU investigators would keep a surveillance on Colletti's Highland Park home the next morning and then follow him into the city and into the bank. Roos, in a private room with Colletti, would give a signal and at that moment the CIU investigators would place Colletti under arrest.

The following morning Roos again met with investigators of the State's Attorney's office. He was fitted with two concealed transmitters in order to record the conversation between Colletti and himself. Roos then proceeded to the Cosmopolitan National Bank at 1:45 p.m., where he met Colletti, and the two of them retired to a small conference room.

Inside the room Colletti opened a suitcase and produced five notebooks containing the covers. Roos spent 15 minutes comparing the envelopes to his Xerox copies and engaging Colletti in conversation. But Colletti would not reveal the names of the men who burglarized David Baker's home. Finally, Roos told Colletti he was going to his safety deposit box to get the $75,000, and when he walked out of the room, the CIU investigators walked in and placed Colletti under arrest.

The collection of stamps and covers was later turned over to the Aetna Insurance Company. But the charges against Victor Colletti, in a verdict assailed by the State's Attorney's office, were dismissed by Judge Daniel Ryan.

Pictured from left to right are former Executive Director Charles Siragusa, the late Commission Co-Chairman Representative Joseph G. Sevcik, former Co-Chairman Senator Philip J. Rock, and Representative Peter P. Peters listening to testimony at the public hearings on fencing held September 14th and 15, 1975.

Chapter 5

PUBLIC HEARINGS

The Commission's public hearings on fencing were held in Chicago on September 15 and 16, 1975, presided over by Executive Director Charles Siragusa, former Co-Chairman Senator Philip J. Rock and the late Represenative G. Sevcik. Other Commissioners in attendance were the late Senator Howard R. Mohr and Senator John B. Roe; and Representatives Peter P. Peters, George H. Ryan, Sr., and W. Timothy Simms.

Presenting testimony on behalf of the Commission were Chief Investigator Howard Roos, Senior Investigator Ronald Ewert, Investigator Edward Doyle, and informant Martin Pollakov. Pollakov explained in detail his own experience in the fencing racket--as previously described in Chapter 1 of this report. He explained how he helped the Commission investigators to penetrate the fencing operations of his former associates, and he told about the sequence of events leading up to the Commission's discovery of the planned Purolator burglary. Agents Roos, Ewert and Doyle each took the stand to explain his own participation in the various phases of the fencing probe. In response to questions, they outlined the Commission's undercover strategies, identified the fences and thieves exposed, and offered suggestions for dealing with the general problem of redistribution of stolen merchandise.

Joseph Beemster, Manager of Safety and Security for the Johnson & Johnson Company plant at 4949 West 65th Street, Bedford Park, took the stand to explain how Johnson & Johnson's cooperation with the Commission's investigation resulted in the arrest and firing of several employees, as well as in a tightening of the firm's security procedures. Beemster estimated that Johnson & Johnson lost $60,000 in merchandise to the dock workers and truck drivers whose activities our investigation exposed.

Kenneth L. Gillis and Nicholas Iavarone of the Cook County State's Attorney's office explained their role in the Commission's two-year investigation: advising the Commission on applicable laws; guiding in the preservation of evidence; and aiding in the protection of witnesses.

Mr. Gillis offered several reasons why the professional fence poses such a large problem for law enforcement. The Illinois Criminal Receiving statute, he said, is modelled after the ancient English law, which was drawn for such

simple problems as the theft of a cow or a horse. "We deal in a computerized, rapid-moving era, but we don't have the statutes to cope with these times," Gillis said. The thieves are extremely sophisticated, and it is very difficult to prove beyond a reasonable doubt the identity of the goods in a fence's possession. In addition, Gillis said that many judges do not appreciate the seriousness of the crime and, as a result, even convicted fences are often handed light penalties.

Mr. Iavarone urged the legislature to establish a new statute which deals specifically with commercial theft. This statute, he said, should bear a penalty which takes due consideration of the harm commercial theft does to thousands and thousands of people.

Philip Mitchel, Chief Investigator for the Illinois Department of Revenue, told the Commission he favored legislation making most violations of the revenue law felonies with at least a three-year statutory limitation for prosecution. Currently, such violations are Class B misdemeanors, and the period of statutory limitation is 18 months.

Mitchel said that it is extremely difficult for the Department of Revenue to take action against suspected fences because of the way in which these businesses are run. "They deal in cash...there is no audit trail...books and records are generally not accurate." But Mitchel said that if the Department can get the proper information there are a number of possible tax law violations which could put a fence out of business: filing false returns, failure to file, operating without a certificate of registration, and failure to produce books and records.

Mitchel agreed that the dual set of books kept by Delmar Lee Markham (obtained by the Commission) showed an accurate picture of how such businesses are run. But of course it is extremely difficult for the revenue department to discover this kind of evidence.

Lawrence Allred, Vice-President of the Barton Chemical Company, 5331 West 66th Street, Bedford Park, fired his dock foreman, Charles Schultz, and forklift driver, Robert Simmons, as a result of the Commission's investigation. Allred said an audit showed that the firm lost about $12,000 in merchandise--primarily windshield washer fluid--because of Schultz's activities.

Allred said that almost 10,000 cases of various products are shipped out of Barton Chemical each day, and that

it is virtually impossible to make a physical count daily. Even when their inventories showed 50 or 100 cases missing, it would be hard to pinpoint the reason.

"The stuff is manufactured in one area, warehoused in another area, and loaded into a truck at the docks--and there is always a possibility of damage or even a bad case count," Allred explained. Such losses, he said, are chalked up to "shrinkage." But he acknowledged that if these losses continued week after week, "then you know...it is being stolen."

Allred said he had no suggestions about legislation, but admitted that "I do know a little more, thanks to the Commission, about running my own plant. I have tightened up everything I can think of so that this won't happen again."

Charles R. Schultz, the fired Barton Chemical Company dock foreman, testified at the Commission's hearings and answered all questions put to him regarding theft of Barton Chemical products and his sale of the merchandise to Delmar Lee Markham, Martin Pollakov and others. Schultz also admitted to storing stolen Union Carbide batteries in Barton warehouses--for which Markham paid him $20 a skid.

Schultz, who had been an $18,000 a year employee, said he got involved in the schemes because he needed the extra money.

Rufus Cathey, a self-employed truck driver, was questioned by Commissioners concerning his theft of Wylers Company products and his sale of these products to Delmar Lee Markham.

Cathey explained that he often picked up merchandise from a Chicago-area warehouse where he was so trusted that he was allowed to load his own truck. One day, Markham approached him, flashing a roll of money; Cathey promptly began stealing Wylers products, first in small quantities of 50 or 60 cases, then entire skid loads. He admitted that Commission informant Martin Pollakov helped him to remove the shipping labels prior to delivering the merchandise to Markham's discount store--where Markham would pay Cathey anywhere from $2 to $6 a case. Cathey said he never came close to getting caught.

Roy DiGrazia, general foreman for Lake River Terminals, also testified and admitted that for a few months he accepted money from Markham. He said that one day Markham approached and told him that he had a small store and that he

had some heavy stuff which he could not handle. If DiGrazia would be willing to store the stuff in the warehouse, Markham would pay him $35 a skid. DiGrazia agreed, and he split the $35 a skid with one of his foremen.

The merchandise which Markham brought to the warehouse for storage was batteries stolen from the Union Carbide Corporation. DiGrazia said he did not know it was stolen, and he admitted it was "improper" to accept money in this way without his employer's knowledge. But he thought he was simply doing Markham "a favor" in return for a few dollars.

DiGrazia said he stored the batteries for Markham about five or six times, and that when he and his co-worker became suspicious, they told Markham the deal was off. DiGrazia later told his bosses the whole story.

Several fencing suspects who were subpoenaed to appear at our public hearings invoked the Fifth Amendment against self-incrimination. These included Theodore E. Macis, Roy Markham, Aldo Mazzone, Herbert Mosky, and Esteban Nieves.

The Commission approved a written resolution for us to proceed toward granting immunity to these individuals. Accordingly, on November 13, 1975, the appropriate petition was filed in Cook County Circuit Court. Four of the five witnesses were represented by counsel when a court hearing on the merits of the Commission's petitions was held on November 21, 1975, before Circuit Court Judge Richard J. Fitzgerald.

Judge Fitzgerald ruled that the Commission's authority to grant immunity was limited to compelling testimony related solely to Illinois criminal acts. No testimony could be compelled from a witness if it reasonably appeared to subject him to indictment or prosecution under the laws of another state or of the United States. Section 315 of the Commission's enabling Act (Chapter 63, Section 315, Ill. Rev. Stats., 1975) contains such a prohibition.

* * * * *

Testimony of Immunized Witnesses

Four fencing suspects testified before the Commissioners on January 23, and February 6, 1978 under a grant of immunity from prosecution from the Circuit Court. Highlights of their testimony follow:

Esteban F. Nieves

Esteban F. Nieves appeared before the Commissioners with his counsel on January 23, 1978, at the Commission offices. During the period between 1972 and 1974, Nieves was employed as a truck driver for Gordon's Transport during which time he made pick-ups and deliveries at the Union Carbide Company. He said that a dock hand at Union Carbide named "Mac" approached him with a scheme to steal batteries. He admitted that he stole batteries once or twice a week for over a year and a half and subsequently delivered them to Delmar Lee Markham or a place designated by Markham. (Delmar Lee Markham is the owner of Johnny's Discount Store in Summit, Illinois.) Markham paid him two or three dollars per case of batteries.

Nieves sketchily identified two other truck drivers involved in stealing batteries from Union Carbide: one worked for Clairmont Trucking and the other for Smith's Trucking. Nieves said that someone else made arrangements with the dock hands to load the stolen merchandise onto his truck, he never had to ask them. Between 1972 and 1974, he estimated that he made five or six thousand dollars off of this scheme.

Herbert Mosky

Herbert Mosky also testified before the Commissioners on January 23, 1978, concerning his purchases of stolen Eveready batteries as part of a fencing operation.

Mosky, President and owner of Archer Discount at 4195 South Archer Avenue, received several hundred cases of stolen Eveready batteries which he admitted he purchased from Delmar Lee Markham for about $16 a case. Mosky said that he also had dealings with Martin Pollakov, the Commission's informant, who delivered stolen batteries to his discount store. Mosky testified that he purchased stolen Union Carbide batteries from Delmar Lee Markham. Mosky had recently served six months at the Metropolitan Correctional Center in Chicago. Following questioning, he made a statement saying he would like to cooperate fully with the Commission. He said that he had testified for two and a half hours before the Federal Grand Jury and had informed them in great detail of his involvement in the redistribution of stolen property.

Theodore E. Macis

The next witness to testify on the same day was Theodore E. Macis. Macis was formerly a truck driver for Motor Express, and he was assigned a shuttle run from Johnson &

Johnson from their production facility in Bedford Park to the warehouse in Lemont. Mr. Macis' testimony was characterized by considerable contradictions and somewhat evasive answers.

He indicated that he had been convicted of theft of property from Johnson & Johnson, although he claimed that the property had been mistakenly left in his truck. He received three years' probation, following his arrest by agents of the Illinois Bureau of Investigation. At the time of his arrest in March, 1975, he was transferring Johnson & Johnson cases from his truck to one owned by Delmar Lee Markham. Under further questioning by the Commissioners and Acting Executive Director Ronald Ewert, Macis continued to be unresponsive and evasive. He was warned that he was under oath and that he could be prosecuted for perjury. His testimony remained unclear surrounding the events leading to his arrest and the general period before and after his arrest.

Aldo Mazzone

Aldo Mazzone testified before the Commissioners on February 6, 1978, concerning his involvement with the purchase and redistribution of stolen merchandise. Mazzone said he was a truck driver for Spector Freight System in Hillside, Illinois and worked for both Delmar Lee Markham and Roy Markham (brothers). He purchased stolen merchandise for the Markham brothers' store, Johnny's Discount in Summit. He dealt specifically with stolen Eveready batteries and Johnson & Johnson Band-Aids. He acquired the batteries through Esteban F. Nieves and the Johnson & Johnson products from Theodore E. Macis. This confirmed the earlier testimony of Nieves and Macis. He also told the Commissioners that he purchased large quantities of dog food and picnic jugs for redistribution, but he was not certain whether this merchandise was stolen or acquired from close-out sales.

He told the Commissioners that he was arrested in Elk Grove Village for possession of stolen property on December 7, 1972.

Chapter 6

THEFT AND FENCING OF ART, ANTIQUES AND JEWELRY

On April 30, 1975, Chief Investigator Howard Roos received a phone call from an anonymous informant who told him that two individuals named Leslie Shaffer and Gary Gregor were en route from Ft. Lauderdale, Florida to Champaign, Illinois in a rented Chevrolet stationwagon containing 23 antique Oriental rugs--items which had been stolen on January 23, 1975, in a burglary at Joseph W. Fell, Ltd., 3221 North Clark Street, Chicago. According to the informant, Shaffer and Gregor were planning to sell the rugs to one William Leech, a Champaign businessman.

Roos relayed this information to First State's Attorney Thomas Knight at the Champaign County Courthouse and two days later, on May 2, 1975, Shaffer, Gregor and Leech were apprehended by Illinois State Police shortly after three of the stolen rugs had been delivered to Leech's home. All three individuals were indicted on a charge of grand theft.

This incident ultimately mushroomed into a full-scale investigation of a ring of major thieves and fences of art, antiques, and jewelry. Commission Investigator Edward Flynn worked undercover on this assignemnt for more than a year--making contacts and developing a number of confidential informants. This combination of field work and information gleaned from sources allowed Flynn to learn the modus operandi of several long-sought thieves and fences, and it resulted in their exposure, arrest, or conviction. They are: Donald E. Darche and his adopted stepson, Lance L. Darche, most recent address, 312 West Dickens, Chicago; Leslie Shaffer, formerly of 3227 North Clark Street, Chicago; Scott Wayne Worthington, of Chicago and Boca Raton, Florida; and Allen Eugene Heddings, formerly of 4250 North Winthrop, Chicago.

The Oriental Rug Theft

After Leslie Shaffer was arrested for stealing rugs from Joseph W. Fell, Ltd., he later spoke with Commission investigators, discussed events leading up to the theft, and identified accomplices and associates.

Shaffer said that approximately three weeks before the Fell burglary he had thrown a party at his apartment which was located above the Period Antique store where Shaffer was employed. Among the invited guests were Donald and Lance Darche, who told Shaffer of their intentions to pull off a

robbery of either the Period Antique store or Joseph W. Fell, Ltd., across the street. Shaffer said that he persuaded the Darches to key on the Fell store, and they in turn instructed him to gather whatever information he could about the store's alarm system and the hours kept by the personnel.

On the night of January 22, Lance Darche and two males unknown to Shaffer arrived at Shaffer's apartment and told him that they had a truck parked on the street and that the job was "going down." Shaffer said he did not participate in the actual burglary; he waited in his apartment and two hours later Darche phoned to say that the job was done.

A few days later Shaffer and Darche packed the stolen rugs in a rented stationwagon, drove to Ft. Lauderdale, and put the rugs in temporary storage at the house of a friend. Shortly after returning to Chicago, Shaffer began to suspect that the Darches were double-crossing him, so he made a move to gain control of the rugs himself. He called a friend in Champaign named Gary Gregor, who told him he knew someone who would be interested in buying the rugs. This man was William Leech.

Thus, Shaffer and Gregor drove to Ft. Lauderdale, picked up the rugs, and returned to Champaign--where, as told above, they were subsequently arrested on May 2, 1975.

The Mardon Antique Theft

Shaffer also admitted to the Commission his complicity in the theft of approximately $7,500 worth of antique jewelry from Don Rose, owner of Mardon Antiques, 3227 North Clark Street, Chicago, in early October, 1974.

According to Shaffer, plans for the burglary were made one night during a discussion with Donald and Lance Darche. Lance told Shaffer that he had checked out the alarm system at Mardon Antiques and Don Rose's apartment (located above the store), and that the side windows of the apartment were not hooked up to the alarm system. Shaffer said that Donald Darche then told him that he would buy whatever antique jewelry Shaffer could steal.

A few days later, at 3:00 a.m., while Rose was attending an auction out-of-town, Shaffer forced open the side window of Rose's apartment with a screwdriver, went inside, and found an overnight airline bag sitting on the floor. Inside were numerous pieces of antique jewelry.

Shaffer sold the jewelry to Donald Darche for $1,500; Darche, according to informants, sold the jewels to a couple

residing in Gates Mills, Ohio, who had no suspicion whatever that the jewels were stolen. On October 16, 1974, they paid Darche $8,475 in the form of a check which Darche deposited in the Amalgamated Trust and Savings Bank of Chicago.

On July 10, 1975, Commission Investigator Charles Ekdahl traveled to Ohio and spoke with the couple about the various purchases they had made from Darche. They were told that the Commission had good reason to suspect that at least some of the jewels purchased by them on October 15, 1974, were proceeds of a burglary at Mardon Antiques.

They told Ekdahl that they had been introduced to Darche at an auction in Chicago several years earlier. Darche told them that his mother had been married three times to wealthy men, and that she had accumulated a large collection of jewels which, after her death, Darche had no interest in keeping. Thus, they said they bought more than $20,000 in jewels from Darche in the past five years. They even showed Investigator Ekdahl a photograph given to them by Darche: in this picture Darche is shown standing next to his mother, who is wearing the jewelry which they bought on October 16, 1974. Darche, of course, gave this photo to them as proof of his ownership of the jewels.

Ekdahl obtained photographs of all of the jewels purchased by the Ohio couple from Darche. Back in Chicago, Ekdahl showed these photos to informants who were able to identify certain pieces as being stolen from Mardon Antiques. On August 6, 1975, Ekdahl showed these photos to Don Rose, proprietor of Mardon Antiques. Rose positively identified several of the pieces of photographed jewelry as part of the October, 1974 burglary.

Rose subsequently signed a complaint charging Donald Darche with theft, and on November 21, 1975, Darche was arrested by the Chicago Police Department. But the court found No Probable Cause, and when the couple from Ohio declined to come to Chicago to testify against Darche, the Cook County State's Attorney's office decided not to take Darche before a Grand Jury.

The Commission, however, continued its investigation of Darche. In January, 1976, we subpoenaed him to our offices for questioning, but Darche, accompanied by his attorney, invoked his Fifth Amendment privilege on all questions. In May informants provided Investigator Flynn with photos of Darche's apartment at 312 West Dickens, Chicago. These photos revealed several stolen paintings which, they said, had been originally sold through Wally Findlay Galleries, 814 North Michigan, Chicago.

Flynn contacted officials of this gallery, who viewed the photos in question and were able to determine that two of the paintings had been sold to a Chicago-area resident. When he was called to the Commission offices to view the photographs, he positively identified the two paintings entitled "Views of Amsterdam" as being his. He said he bought the paintings from Wally Findlay Galleries in June, 1967, for $725 each, and that they were stolen from his home on May 18, 1968.

The Commission, in cooperation with the State's Attorney's office and the Chicago Police Department, then visited Darche's home and removed the two paintings entitled "Views of Amsterdam." Ultimately, the State's Attorney's office declined to prosecute on the grounds that the statute of limitation law would apply. But the paintings were returned to their rightful owner.

Scott Wayne Worthington

In the Introduction we cited a study by the Westinghouse Corporation which concluded that LEAA-funded anti-fencing operations, in addition to recovering stolen property, often lead to the solution of unrelated crimes such as murder and rape. Likewise, our own investigation led to the arrest of one Scott Wayne Worthington, a thief who, though not a fence himself, is a major supplier to fences. Worthington was described by a Ft. Lauderdale police spokesman as "one of the best cat burglars and most professional home invasion artists in the country."

Worthington, whose police record for numerous burglary arrests dates back to 1963, was finally convicted and sentenced to a five-year prison term after Florida law enforcement officials were made aware of Worthington's activities as provided by this Commission.

Until that time, however, Worthington had lived the life of one who was obviously a master at his work. He owned a luxurious home in one of the most exclusive sections of Boca Raton, Florida, furnished with the finest paintings, sculptures, and antiques. He owned a new Lincoln Continental Mark IV, as well as an antique reproduction of a Cord. His life style, in short, was similar in many ways to the same super rich who were the victims of most of Worthington's burglaries.

Worthington's strategy was to follow the money, and his favorite target was the wealthy set who spend their summers on Chicago's North Shore and their winters in Florida. Here is a description of how Worthington operated, based upon information provided by informants and his criminal associates.

He arrives in the Chicago area in the late spring and sub-leases an apartment in one of the northwest suburbs. He rents a car--an inconspicuous car such as a mid-sized Ford or Chevy. He gets a partner (he always uses a partner), and the two of them then go to one of the Chicago beaches and steal two bicycles. Then, in the morning, Worthington and partner pick out an area to case some homes. Worthington always buys a newspaper and keeps it open to the Want Ad section: if anyone asks why he's driving around the neighborhood, he tells them that he is looking for an address. Usually they case around 8-10 homes each day.

At 6:00 or 7:00 p.m., Worthington mounts the two bikes on the back of the car. He and his partner then proceed to the North Shore. They park the car a few blocks or a mile away from their intended target and bicycle the rest of the way. Worthington wears dark clothing, sneakers, and gloves. On his back, a knapsack containing the tools of his trade: flashlight, police scanner, pry bars, screw drivers, etc.

They check out the homes cased that morning until they find one vacant. Then between 9:00 and 12:00 p.m. they make their move. The bikes are hidden in the bushes. The partner takes a position behind the house, while Worthington walks up to the front door and rings the bell. If no one answers, he leaves and returns a few minutes later. Again he rings the bell--and when he is confident that no one is home, Worthington circumvents the alarm system using a set of master keys and enters the home.

Inside, he lets his partner in, who takes a position where he can view the street. Then Worthington searches the house. He takes mostly jewelry, antiques, paintings--never bothering with televisions, radios, etc. He takes his time, often as long as an hour and one-half. Usually he helps himself to a soft drink.

The stolen goods are placed in knap sacks. If an item is too big, it is hidden in the bushes nearby and retrieved later. When they have finished, they ride away on their bikes, careful never to bike across the lawn. They then return to their car.

Worthington will not go home without making at least one score and he will rarely enter a home after midnight. His goal is to make $10,000 a week. If he makes that much in two nights, he will take the rest of the week off. Generally, though, he hits at least two homes a night.

On July 3, 1975, Commission Investigator Edward Flynn received word from informants that Scott Worthington had committed a $300,000 robbery in the Ft. Lauderdale area earlier in the week--and that Worthington had plans to pull off a one-half million dollar theft over the 4th of July weekend. Flynn promptly called the Ft. Lauderdale police department and learned that a $400,000 robbery (home invasion) had been committed on July 1st at the home of one Ruth Conley, 3500 Galt Ocean Mile in Ft. Lauderdale. When he told police officials there of Worthington's plans for another burglary over the weekend, arrangements were made for Investigator Flynn to fly down to Florida and to aid police in conducting a surveillance of Worthington's activities. This surveillance was maintained during the weekend, but he managed to escape detection. A few days later, on July 8, 1975, a Ft. Lauderdale jewelry store was robbed of one-half million dollars in jewels.

In mid-August Investigator Flynn, working through informants and North Shore police departments, learned of the theft of specific objects which Flynn had reason to believe were in Worthington's possession. These objects, stolen from various Chicago-area homes, included a rare Reemington bronze statue valued at $40,000, a papier-mache owl ($200), and a statue of Napoleon ($900). This information was relayed to Florida officials, and on August 26th, Flynn and detectives of the Boca Raton police department, armed with a search warrant, paid a visit to Worthington's home. Worthington was not there, but the investigators gained entry and confiscated numerous items believed stolen--including the papier-mache owl. Throughout the house were statues of owls and paintings of owls. Also scattered throughout the house were bags of silver dollars--we later learned that Worthington paid his gardener only in silver dollars, even though the bills ran as high as $90 a month. In addition to the numerous art objects, the investigators found two bikes, burglar tools, and disguises. Later that night Worthington was arrested by the Boca Raton police.

During the next two months, Worthington was charged with several more burglaries, but for a variety of reasons he was always released. Sometimes witnesses failed to make positive identification (police suspected witness intimidation). But despite the fact that he was identified by Mrs. Ruth Conley as the man who tied her up and stole $350,000 in valuables, a Florida Circuit Court set Worthington's bond at only $12,500. Three weeks earlier a different judge had denied Worthington bond on the same charge; in fact, robbery suspects are usually denied bond in Broward County, according to officials there.

Worthington was convicted for burglary in Lighthouse Point, Florida and was sentenced on January 16, 1976, to five years in prison.

Allen Eugene Heddings

The Commission's fencing investigation also resulted in the arrest of Allen Eugene Heddings, a man long-known to Chicago-area police officials. Heddings, formerly a partner of both Scott Worthington and Lance Darche, has a criminal record dating back to 1950 for burglary, theft, robbery, drugs, and forgery. He is an expert pickpocket.

On January 16, 1975, the Commission received a tip that Heddings had burglarized a home in Evanston three to four weeks earlier in an effort to steal a six-carat diamond. We contacted the Evanston Police Department and learned that on January 9th a burglary had taken place at 2000 Brummel Street in Evanston, the details of which fit exactly the information we had obtained. The suspect had broken into the home with a pry bar and was in the process of ransacking the home when the owner returned. After a brief struggle, the suspect escaped.

Heddings was arrested for burglary on May 16, 1976, but was acquitted a month later when the complainant failed to make a positive identification.

Our undercover investigation of Heddings also resulted in the apprehension of one Robert Smith, another former partner of Heddings. Smith had escaped from the Vienna Correction Institution on August 9, 1975, where he was serving a 25-35 year sentence for armed robbery. Shortly after his escape, Smith teamed up with Heddings. The pair was making plans to pull off a number of burglaries, but when the Commission learned from informants of Smith's escape and hideout, we contacted the Chicago Police Department, who arrested Smith on September 3, 1975, and returned him to prison.

Summary

In addition to our investigation of the above individuals, the Commission developed information and leads on a number of other fences and thieves. This information was shared with numerous law enforcement agencies from which we received continual cooperation throughout the fencing investigation.

Chapter 7

CONCLUSIONS AND RECOMMENDATIONS

Fencing--the criminal redistribution of stolen property--is one of the most widespread and costly forms of criminal activity. It accounts for the loss of millions of dollars annually in stolen merchandise. It accounts for a proportionate increase in retail prices. It accounts for an inestimable loss in tax revenue. And fencing becomes more widespread and costly every year.

The fact that the Commission's fencing investigation continued for more than three years attests to the extent of the problem. Initially, we anticipated it would take about a year to penetrate and expose some of the area's major fencing operations. But we were soon to find out that fencing is hardly confined to a handful of organized rings. Virtually every time our investigators made an undercover contact with one fence, they were on the trail of others--as well as the fence's associates: crooked dock workers, truck drivers, boosters, and burglars. Fencing goes on in the most unlikely places among the most unlikely people: not simply in dingy warehouses by underworld types, but in some of the city's well-known and long-established businesses. Those cases where we were able to obtain first-hand evidence of fencing activities are documented in the text of this report; in many cases, lack of sufficient proof prevents us from identifying the suspects, but we have no doubt about the nature of their activities and we turned over much of this information to other law enforcement agencies.

There are two main reasons why the fence is permitted to flourish: first, because society in general encourages and patronizes his activities; and second, because the laws against criminal receiving are extremely weak.

To understand society's acceptance of the fence, you need look no further than the pocketbook. People like getting a bargain. In fact, it doesn't even have to be a bargain, so long as the buyer thinks it is. This explains why a fence will often claim an item is stolen even if it is not. "Hot" merchandise usually increases a buyer's interest.

It would surely be a futile effort to try to convince people that in the long run fences drive up retail prices. For most people, this would be all the more reason to patronize the fence--how else to avoid the high retail price?

And the people who patronize fences are not simply the poor or the uneducated or the unethical. The fence's client is an entire cross-section of society, including the most respected members of the community. This fact alone allows the fence an important degree of self-vindication, as well as self-respect.

The rationale of many fences--and also of the public--is that the fence does not steal. He is not a thief. The fence simply sells property stolen by someone else. This line of reasoning is of course painfully superficial. For the truth is that fencing is a major cause of theft. Sometimes, the fence simply tells the thief to get him certain products. But more important is the fence's indirect cause of theft. Without the fence, the thief would have no outlet for his stolen merchandise.

To say this is not to minimize the importance of the thief--for certainly the fence is as dependent upon the retail booster and the crooked dock worker as they are upon him. And it became quite clear during our investigation that many companies--either out of ignorance or negligence--have insufficient security procedures at their warehouses and loading facilities. Rather than investing the time and manpower necessary to investigate consistent losses of merchandise, many manufacturers simply write-off such losses as "shrinkage." And even when an employee is caught stealing, the company is more likely to fire him rather than call the police. Then he takes a similar position somewhere else--and the problem has simply been transferred to another firm. Yet these same companies will usually go to great lengths to prosecute a shoplifter.

In addition, many firms have such inadequate systems of inventory control that there is no way they can locate the reasons for missing merchandise. This is of course an immense benefit to the fence, since one of the main difficulties in prosecuting the fence is that the merchandise in his possession often cannot be traced back to its source.

The Commission believes, then, that a major indirect cause of property crime is the property owners themselves. Internal theft is a far more serious problem than external theft, but unless employers are willing to do their part to control it, they unwittingly contribute to the whole problem of criminal redistribution of stolen property.

Despite all this, the Commission still believes that property crimes will not decrease noticeably unless the fence, the middleman, is removed. It is difficult to remove a man

who is, as we said, so well protected by public opinion--particularly if he is also protected by laws which seem almost to have been drafted for the fence's benefit. The investigative and evidentiary problems involved in enforcement of existing law are so great that unless a fence is "caught in the act," so to speak, he can usually defend himself with a host of reasonable-sounding explanations. Sometimes, even catching a fence in the act isn't enough to get a conviction--witness the discussion of the stolen stamp collection in *Chapter 4*, a flagrant but by no means unique example.

We believe that the best solution to the problem of fencing is to take the profit out of it. And we think the best way to do that is with a law which provides for civil action to be brought against the suspect by the injured party. In a civil case the burden of proof is reduced from "beyond a reasonable doubt" to a "preponderance of the evidence." Liability is established on the basis of negligence rather than actual knowledge; many constitutional rights available to the criminally accused are not applicable in a civil proceeding. An award of money damages can often be more of a deterrent than probation or a light prison sentence.

The Commission, therefore, recommends and includes with this report as Appendix B an amendment to the Criminal Code which would allow a party injured by violators of the fencing statute, Chapter 38, Section 16-1(d), to institute a civil action and recover threefold the amount of actual damages sustained, as well as punitive damages where appropriate. This legislation would allow a judge or jury to presume, in three situations, defendant's knowledge that property was stolen: possession of recently stolen property; a purchase of property at a price substantially below its fair market value; and a dealer's purchase of property out of regular course of business or without the usual indicia of ownership. Issues already determined at the defendant's criminal trial would not have to be relitigated in a civil action. The statute of limitations, set at five years, would be suspended during the pendency of any criminal action. This act also clearly states that its remedial provisions are to exist separate and apart from any other civil or criminal action.

It is hoped that this new legislation will serve two major purposes neglected under the present statute. First, it would increase the possibility of discovering violators of the theft statutes by allowing victims to initiate triple-damage civil actions. Secondly, and perhaps more importantly, it will provide sanctions against violators who cannot be convicted under criminal statutes because of the higher due process requirements.

During the 1977 session of the 80th Illinois General Assembly, Senator Philip J. Rock introduced Senate Bill 667 which provided for treble damages in a civil suit. Unfortunately, this legislation was referred to committee and no action was taken on it. The Commission urges the General Assembly to recognize the seriousness of the fencing situation in Illinois and pass this much-needed legislation.

In addition, the Commission believes that the Department of Revenue needs more funding and manpower in order to combat the huge tax losses posed by fencing operations. In *Appendix A* of this report are copies of the double-bookkeeping records maintained by one of the fencing operations we penetrated. This is an extremely common method used by many businesses in order to defraud the government of both income and sales tax, but of course finding such evidence is not easy.

There are a number of tax law violations which the Department of Revenue can use to put a fence out of business: filing false returns, failure to file, operating without a certificate of registration, and failure to produce books and records. But because of the way in which such businesses are run, it is extremely difficult for the Department of Revenue to get the proper information necessary to take action. To make any progress in this direction the Department needs more funding and manpower.

The Commission also favors legislation making most violations of the revenue law felonies, with at least a three-year statutory limitation for prosecution. Currently, such violations are Class B Misdemeanors, and the period of statutory limitation is 18 months.

Appendix A

DELMAR LEE MARKHAM'S DOUBLE BOOKKEEPING

(During the course of the Commission's fencing investigation, our agents obtained two sets of books from Delmar Lee Markham, owner of Johnny's Discount Store. One set of books showed the store's actual income; the other showed the store's bogus income. This information resulted in Markham's conviction for State sales tax evasion. Here is a sample of Markham's dual records for April, 1974.)

April, 1974
Actual Books

			Cigarettes	Milk	Tax
Monday	4/1	1,185.71	586.29	65.29	51.87
Tuesday	4/2	1,175.17	685.71	71.81	55.43
Wednesday	4/3	1,078.33	562.72	80.00	50.05
Thursday	4/4	1,635.17	770.00	202.55	75.88
Friday	4/5	1,599.67	829.77	126.03	75.49
Saturday	4/6	1,391.61	733.05	151.89	64.84
Sunday	4/7	785.73	417.10	68.04	36.94
		8,851.39	4,584.64		410.50
Monday	4/8	1,174.87	622.00	100.78	55.72
Tuesday	4/9	1,061.82	579.98	89.57	49.56
Wednesday	4/10	1,280.91	783.70	97.67	59.95
Thursday	4/11	1,599.54	1,070.71		74.95
Friday	4/12	2,147.75	1,292.11	203.55	101.80
Saturday	4/13	1,566.63	759.85	284.21	73.19
		8,831.52			415.17
Monday	4/15	1,181.70	700.00	136.59	55.94
Tuesday	4/16	1,222.76	801.77	62.25	56.43
Wednesday	4/17	1,151.19	757.66	81.90	53.71
Thursday	4/18	1,514.49	923.91	67.51	72.13
Friday	4/19	1,936.74	1,090.03	301.58	93.88
Saturday	4/20	1,826.64	861.41	315.93	85.76
Sunday	4/21	727.47	393.47	111.50	34.41
		9,560.99			452.26
Monday	4/22	1,265.10	781.88	82.48	60.64
Tuesday	4/23	1,035.42	585.19	107.23	49.11
Wednesday	4/24	1,047.47	613.17	60.88	48.63
Thursday	4/25	1,179.21	636.97	123.15	56.15
Friday	4/26	1,831.34	1,003.60	251.61	86.47
Saturday	4/27	1,639.75	910.36	220.58	76.16
Sunday	4/28	715.93	387.21	110.50	33.39
		8,714.22			410.55

			Cigarettes	Milk	Tax
Monday	4/29	1,202.46	800.00	67.00	56.70
Tuesday	4/30	1,062.49	700.00	63.60	50.23
Month of April		38,223.07			

April, 1974
Bogus Books

Monday	4/1	534.29
Tuesday	4/2	417.28
Wednesday	4/3	401.61
Thursday	4/4	532.87
Friday	4/5	568.79
Saturday	4/6	437.69
		2,892.53
Monday	4/8	437.27
Tuesday	4/9	392.27
Wednesday	4/10	369.78
Thursday	4/11	486.17
Friday	4/12	514.18
Saturday	4/13	489.70
		2,689.37
Monday	4/15	467.79
Tuesday	4/16	358.24
Wednesday	4/17	311.63
Thursday	4/18	523.07
Friday	4/19	489.70
Saturday	4/20	519.20
		2,669.63
Monday	4/22	521.16
Tuesday	4/23	450.23
Wednesday	4/24	434.30
Thursday	4/25	524.24
Friday	4/26	627.74
Saturday	4/27	729.39
		3,287.06
Monday	4/29	488.77
Tuesday	4/30	391.96
Month of April		12,419.32

Appendix B

An Act to add Section 16-1.2 to the "Criminal Code of 1961," approved July 28, 1961, as amended.

Be it enacted by the People of the State of Illinois, represented in the General Assembly

Section 1. Section 16-1.2 is added to the "Criminal Code of 1961," approved July 28, 1961, as amended, the added section to read as follows:

Section 16-1.2 (a) Civil Damages: Any person damaged by reason of any conduct constituting an offense in violation of paragraph (d) of Section 16-1 may bring a civil action against any such violator and recover threefold the amount of damages established therein as sustained by him, together with the costs of the action, including reasonable attorneys' fees, and punitive damages, where appropriate.

(b) Burden of Proof; Estoppel: The burden of proof necessary to recover such damages shall be the same as in civil proceedings. A final judgment or decree rendered in favor of the State of Illinois in any criminal proceeding under this Act shall estop the Defendant in any subsequent civil action or proceeding under this Act as to all matters which such judgment or decree would be an estoppel as between the parties to it;

(c) Presumptions: For purposes of this Section proof of the following shall give rise to an inference that the defendant knew or should have known that the property was stolen;

1) Proof of possession of property recently stolen, unless satisfactorily explained;

2) Proof of the purchase or sale of stolen property at a price substantially below the fair market value, unless satisfactorily explained;

3) Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business, or without the usual indicia of ownership, other than mere possession, unless satisfactorily explained;

(d) Limitations; Defense: Notwithstanding any other provision of law, a criminal or civil action under this Act may be commenced up to 5 years after the cause of action occurs. The running of the period of limitation prescribed by this Section

shall be suspended, however, during the pendency of any criminal action brought under paragraphs (a), (b), (c) or (d) of Section 16-1 which is based in whole or in part on any matter complained of in the action brought under this Section.

The commencement of a civil action under this Section shall not preclude the application of any other remedy, civil or criminal, under this Act or any other section of the Illinois Statutes, and, neither shall the commencement of a criminal action under Section 16-1 be a prerequisite to the recovery of damages under this Section.

Appendix C

WITNESSES WHO TESTIFIED AT PUBLIC HEARINGS

The following persons testified at the Commission's Public Hearings held September 15 and 16, 1975.

Lawrence Allred
Vice President, Barton Chemical Corporation, 5331 West 66th Street, Chicago, Illinois 60638

Joseph R. Beemster
Manager, Safety and Security, Johnson & Johnson, 4949 West 65th Street, Chicago, Illinois 60638

Richard Berdine
10310 South Ridgeland, Chicago Ridge, Illinois 60415

Rufus Cathey
3620 West Flournoy, Chicago, Illinois 60624

Roy DiGrazia
4619 Custer, Lyons, Illinois 60534

Edward Doyle
Special Agent, Illinois Department of Law Enforcement, Division of Investigation, 53 West Jackson, Chicago, Illinois 60604 (former Commisssion investigator)

Kenneth Gillis
Deputy State's Attorney, Cook County, 2600 South California Avenue, Chicago, Illinois 60608

Nicholas Iavarone
Assistant State's Attorney, Cook County, 2600 South California Avenue, Chicago, Illinois 60608

Theodore E. Macis
8141 West 84th Place, Justice, Illinois 60453

Roy Markham
2652 West 64th Street, Chicago, Illinois 60629

Aldo Mazzone
452 West Berkshire, Oak Park, Illinois 60303

Philip Mitchel
Investigations Division, Illinois Department of Revenue, 160 North LaSalle Street, Room 631, Chicago, Illinois 60601

Herbert Mosky
Owner, Archer Discount, 4195 South Archer Avenue, Chicago, Illinois 60632

Esteban Nieves
3520 South Artesian, Chicago, Illinois 60632

Martin Pollakov
Commission Confidential Informant

Howard O. Roos
Consultant, Howard O. Roos & Associates, 1560 North Sandburg Terrace, Chicago, Illinois 60610 (former Commission Chief Investigator)

Charles Schultz
10037 South 53rd Avenue, Oak Lawn, Illinois 60454

Appendix D

BUSINESSES THAT ASSISTED IN THE COMMISSION'S FENCING INVESTIGATION

The following businesses and their representatives provided information and/or cash and merchandise which assisted the Commission in its undercover fencing investigation. We wish to publicly thank them for their cooperation.

Alberto Culver Co.
Mort Goldstein, Former Director of Security, 2525 Armitage Avenue, Melrose Park, Illinois 60160

American Express Co.
Frank J. Novak, Chief Special Agent, Room 1300B, 200 West Monroe Street, Chicago, Illinois 60606

American Home Products
Joel Baron, Assistant to the President, 5151 West 73rd Street, Chicago, Illinois 60638

Barton Chemical Co.
Jerome Engerman-President, Lawrence Allred-Vice President, 5331 West 66th Street, Chicago, Illinois 60638

Bristol-Myers Co.
Albert E. Hogan, Security Officer, 345 Park Avenue, New York, New York 10022

Bristol-Myers Co.
Richard J. Rechtiene, Distribution Center Manager, 6700 South Harlem Avenue, Bedford Park, Illinois

Calman Central States Hobby Distributors, Inc.
Marvin Stein, Vice President, 4306 United Parkway, Schiller Park, Illinois 60176

Demert & Dougherty, Inc.
Leonard B. Drell, President, 5000 West 41st Street, Post Office Box 112 (Cicero Branch), Chicago, Illinois 60650

Gunst, Kanow & Gassin, Inc.
Bernard Gassin, President, 833 West Jackson Boulevard, Chicago, Illinois 60607

Johnson & Johnson
Neil A. Anthony-Former Superintendent of Security, Joseph R. Beemster-Manager of Safety & Security, 4949 West 65th Street, Bedford Park, Illinois 60638

Montgomery Ward Co.
J. Liberacki-Corporate Protection Manager, Ralph Tromater-Field Protection Manager, 619 West Chicago Avenue, Chicago, Illinois 60610

Skil Corporation
Bolton Sullivan, President, 4801 Peterson Avenue, Chicago, Illinois 60640

Speidel Watch Band Co.
70 Ship Street, Providence, Rhode Island 02903

The Travelers Insurance Company
Barney Reagan, Assistant Manager, Claim Department, 2711 West 183rd Street, Homewood, Illinois 60430

Turtle Wax, Inc.
Denis J. Healy, Executive Vice President, 5655 West 73rd Street, Chicago, Illinois 60638

Union Carbide Corporation
J. Martin Bowman, Business Analyst, 270 Park Avenue, 9th Floor, New York, New York 10017

Warner Lambert
Edward R. Harris, Director, Corporate Safety and Security, 201 Tabor Road, Morris Plains, New Jersey 07950

Zenith Radio Corporation
Charles F. Botkin, Director of Security, 1900 North Austin Avenue, Chicago, Illinois 60639