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**STATE OF NEW JERSEY  
COMMISSION OF INVESTIGATION**

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CR SENT  
11-30-82

**THIRTEENTH  
ANNUAL  
REPORT**

84962



**STATE OF NEW JERSEY  
COMMISSION OF  
INVESTIGATION**

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

\* Excerpt from S.C.I. Law

NCJRS  
AUG 28 1982  
ACQUISITIONS

THIRTEENTH ANNUAL REPORT  
*of the*  
STATE OF NEW JERSEY  
COMMISSION OF INVESTIGATION  
*to the*  
GOVERNOR AND LEGISLATURE



**STATE OF NEW JERSEY  
COMMISSION OF INVESTIGATION**

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

The New Jersey State Commission of Investigation  
is pleased to submit for the year 1981 its thirteenth  
annual report and recommendations pursuant to Sec-  
tion 10 of P. L. 1979, Chapter 254 (N.J.S.A. 52:9M-10),  
the Act establishing the Commission of Investigation.

Respectfully submitted,

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

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

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

\* Excerpt from S.C.I. Law

**THE COMMISSION**

- Origin and Scope
- Biographies

## ORIGIN AND SCOPE OF THE COMMISSION

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

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

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

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

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

The two highest priority recommendations were for a new State Criminal Justice unit in the executive branch of state government and an independent State Commission of Investigation, patterned

after the New York State Commission of Investigation, now in its 24th year of probing crime, official corruption and other governmental abuses.

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

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

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

\*The bill creating the New Jersey State Commission of Investigation was introduced April 29, 1968, in the Senate. Legislative approval of that measure was completed September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969, and ending December 31, 1974. It is cited as Public Law, 1968, Chapter 266, N. J. S. A. 52:9M-1 et seq. The Legislature on November 12, 1973, completed enactment of a bill, cited as Public Law, 1973, Chapter 238, which renewed the Commission for another term ending December 31, 1979. A bill granting the S.C.I. an extension of its tenure for another five years until December 31, 1984, gained final approval by the Legislature and the Governor in December, 1979. The full text of Chapter 254, L. 1979, appears in Appendix II on P. 95.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Commission emphasizes that indictments which may result from referral of matters to other agencies are not the only test of the efficacy of its public actions. Even more important are the corrective legislative and regulatory actions spurred by arousing public and legislative interest. The Commission takes particular pride in all such actions which have resulted in improved governmental operations and laws.



### MEMBERS OF THE COMMISSION

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

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

Mr. Francis, of Bedminster, is a partner in the Newark and Morristown law firm of Shanley and Fisher. From 1961 to 1963 he was an assistant U.S. attorney and from 1963 to 1965 he was an assistant Essex County prosecutor. A graduate of Williams College and the University of Pennsylvania Law School, he was admitted to the New Jersey State Bar in 1960. Mr. Francis, 46, is the son of former Associate Justice John J. Francis of the New Jersey Supreme Court. He is a Fellow of the American College of Trial Lawyers and of the American Bar Foundation. He is Chairman of the Board of the Hospital Center of the Oranges and has also served as the President of the Village of South Orange. He was appointed to the Commission in February, 1979, by Christopher J. Jackman, then Speaker of the General Assembly of New Jersey.

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

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

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

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

\* Excerpt from S.C.I. Law

**ORGANIZED CRIME PROGRAM**

- Labor Relations Profiteering by Organized Crime
- 1981 Update

## ORGANIZED CRIME PROGRAM

### LABOR RELATIONS PROFITEERING BY ORGANIZED CRIME IN HOUSING CONSTRUCTION

#### *I. General Introduction*

The Commission on December 12, 1979, adopted a resolution authorizing an investigation into:

*Whether the laws of the State of New Jersey are being faithfully executed and effectively enforced with particular reference to the infiltration of organized crime into the construction of residential and commercial projects in the State of New Jersey; and whether, and to what extent, unions involved in the construction of said projects have been infiltrated or affected by organized crime.*

The Commission acted after its staff evaluated reports of possible organized crime activities in the handling of labor relations at certain housing projects. The S.C.I.'s subsequent investigation demonstrated that such incursion into the recruitment of labor and contractors at these projects did occur and was largely attributable to an organized crime network of labor agents that originated in the era of mass housing construction after World War II. The activities of these agents coincided with the emergence of huge housing developments as an economically feasible response to the post-war housing shortage in the New York-New Jersey region. The prospect of substantial profits from a large-scale easing of an urgent social problem was appropriately attractive to financially resourceful builders—a profit potential that also stimulated the typical greed of organized crime elements for a share of the pot. Further, the promise of expanded employment appealed to labor unions with both a direct and indirect stake in the prosperity of the construction industry—a promise that organized crime members and associates with ties to certain unions typically converted into a profiteering opportunity. This exploitation was engineered by so-called labor relations consultants who for almost two decades were controlled by the Brooklyn-based organized

crime family of Carlo Gambino, now deceased. As mass housing construction accelerated, New Jersey began to attract numerous developers whose success depended on preventing multi-million-dollar construction budgets from being crushed by unexpected costs. At the same time trade union workers and leaders, stirred by the publicity about these projects' job opportunities, soon tested New Jersey's long tradition of open shop or nonunion employment in the residential construction field. As a result of increased residential construction in New Jersey, labor consultants beholden to another organized crime family, that of the New Jersey-based Simone Rizzo (Sam the Plumber) DeCavalcante, became active during the late 1960s and early 1970s. Despite considerable public exposure by the press and by federal and state investigations and prosecutions, particularly between 1973 and 1978, organized crime-influenced labor consultants maintained a continuity of labor relations profiteering for at least 30 years.

Although mob-influenced labor consultancy was evident at some housing projects in 1979 and 1980, the practice has since declined. This decline has been attributed to both a curtailment of residential construction caused by the recession and to the S.C.I.'s investigation. Nonetheless, because of the virulence of labor agency's organized crime heritage, the Commission is convinced that the practice may only be temporarily muted and that the threat of a resurgence persists. The Commission will continue its surveillance in this area and, in the meantime, submits this report of its findings as background for appropriate legislative reforms.

## II. Organized Crime in Labor Relations

### INTRODUCTION

During the past 30 years various organized crime-associated individuals were active in labor relations consultancy at housing projects. Because of periodic but interrelated transitions from one consultancy to another, the Commission decided that a chronological narrative would best serve the informational and educational purposes of this review. For further clarity, the chronology is divided into two parts—Part I dealing with activities of consultants beholden to the Gambino organized crime family during the 1950s and 1960s and Part 2 focusing on DeCavalcante organized crime family influences from 1969 to the present.

### PART 1—GAMBINO CRIME FAMILY CONSULTANTS

At the outset, as noted, Carlo Gambino, who ruled an army of organized crime family underlings in the New York metropolitan area, was the behind-the-scenes kingpin of labor relations profiteering at mass housing sites. Two Gambino associates appear first in this report—Henry (Harry the Horse) Saltzstein and Anthony Palimeri, who used the alias of Tony Grande.

Saltzstein, whose criminal record included convictions for burglary and bookmaking and indictments for forgery and grand larceny, became active as a labor relations profiteer in the early 1950s. By 1952 he had become a labor agent for Levitt & Sons, Inc., the nation's first producer of huge single-family housing tracts, ostensibly to shield the Levitt projects from labor union disruptions. In 1954, when Saltzstein incorporated the firm of SGS Associates in New York, Levitt continued its relationship with Saltzstein through SGS.

That SGS Associates was merely a corporate facade for organized crime's labor relations profiteering was demonstrated by the inclusion of Gambino as a listed partner within eight months after its incorporation. Despite its Gambino affiliation, SGS survived numerous legislative or criminal investigations until April, 1965, when the New York Times exposed its labor relations connections with a prominent real estate company, several metropolitan hospitals, a number of national brand-name purveyors of men's clothing, an upstate New York resort hotel, as well as with Levitt, "most of whose massive building operations have been with nonunion labor." The New York Times article also noted in part:

*"William Levitt, the builder, said through a spokesman: 'We learned about a month ago that the 'G' in the firm name was Carlo Gambino. We have since been informed that Mr. Gambino will sever his relationship in the very near future.'*

*"Mr. Levitt, one of the best paying customers of S.G.S., has been dealing with Saltzstein since 1952 and reportedly is paying \$7,000 a month. Mr. Levitt once said in an interview: 'I'm not against unions. I just think we can build houses faster without them.'"*

Saltzstein quickly announced that SGS Associates had been dissolved as of April 30, 1965, "because the bad publicity wasn't good for our business." He told The Times that he alone would continue SGS's business activities.

Tony Grande, who long had been associated with Saltzstein as a Gambino mob contact, remained Saltzstein's pipeline to Gambino after the organized crime boss withdrew from SGS. During an interview by S.C.I. agents, Grande recalled a friendship with Gambino that dated back to the days when he taught Gambino to speak English. Although Grande denied knowing Gambino as a member of organized crime and said he himself knew nothing about organized crime, "made men" or the "syndicate," such statements were belied by the FBI's tape recording of DeCavalcante's conversations in 1964 and 1965 which include references to Grande as a Gambino henchman. Grande also denied to the S.C.I. any connection with SGS. However, the Commission was advised by various law enforcement authorities that Grande frequently discussed SGS contracts with Gambino and was observed at the SGS office and at meetings with Gambino and Saltzstein. Grande eventually took over Saltzstein's labor consultancy accounts after Saltzstein became ill and retired in the late 1960s. By 1970 Grande had become part of a new labor relations company, Lab-Rel Consultants, Inc. This company was formed by a Monmouth County plumber, Ed Lubrano, to cloak his association with Gambino's trusted friend Grande. Lubrano later became an informant for law enforcement agencies, including the S.C.I.

*Levitt & Sons (1950s-1970s)*

Ernest Hurwitz of Montclair, a Levitt employee from 1962 to 1967, became the company's New York-New Jersey regional manager in 1964. Despite his rise to an important executive post with this mass housing builder, Hurwitz during his testimony at the S.C.I. could not recall when or how he came to know that Saltzstein and SGS were employed by Levitt. He claimed he never discussed labor problems with Saltzstein and that his only meetings with him were of a casual nature, "like in the hallway or something." Even Hurwitz's understanding of Saltzstein's functions, he testified, was an assumption based on hearsay:

*Q. Do you know—could you tell us why it was that Levitt hired Saltzstein as a labor relations consultant?*

*A. Well, I would only assume that because Levitt hired a tremendous amount of manpower through contractors. These were—those men were very susceptible to becoming unionized and Levitt's contractors worked these men on a piecework basis, and I think years before when they were building Levittown,*

Pennsylvania, that there had been some picket lines set up. I don't know if Saltzstein was part of the firm at that time, but there was some kind of a problem during sales or something like that and that's just hearsay.

Hurwitz at one point in his S.C.I. testimony remembered that he once asked Saltzstein about his labor relations work but was rebuffed:

*Q. Do you know how it was that Saltzstein was able to keep the projects nonunion? Do you know what he did in order to maintain it nonunion?*

*A. No, no. I had no knowledge, and I had asked him, but he said that was his business.*

Although Hurwitz indicated he did not know how long Levitt used labor relations consultants after he left the company in 1967, the Commission learned that the practice continued at least until 1971. One witness, plumber Ed Lubrano, recalled that by 1969, after Saltzstein retired, he had started Lab-Rel Consultants in partnership with Saltzstein's associate Grande and that Lab-Rel acquired Saltzstein's labor relations accounts, including Levitt. The Commission confirmed that Levitt paid Lab-Rel through the New York law firm of Mirken, Barre and Saltzstein (this Saltzstein was Harry Saltzstein's son, Robert) more than \$94,000 between January, 1970 and March, 1971, a time period which coincides with the duration of Lab-Rel's existence. Lubrano testified at the S.C.I. about Levitt's payment procedures:

COMMISSIONER FRANCIS: When they were monthly payments, would they be like progress payments?

THE WITNESS: Well, Levitt, for example, which was a monthly payment, came through an attorney's office and then to us. It is in the books. I think you have them here.

COMMISSIONER FRANCIS: Did you ever submit requisitions or would your figures ever include requisitions?

THE WITNESS: They didn't have to be. They would just mail that check in, clockwise. The check was always there by the end of the month. I didn't have to bill Levitt.

COMMISSIONER FRANCIS: With Levitt where there was no written contract, how would you arrange for the method and the timing of the payments?

THE WITNESS: Well, Levitt would ship a check to Barre, Saltzstein, which was Harry Saltzstein's son, and Saltzstein just forwarded me the check.

COMMISSIONER FRANCIS: Why did it go through Barre?

THE WITNESS: That is the way Levitt had settled it right after the first investigation had started . . . They used a lawyer to front it.

Commissioner Francis asked Lubrano to explain why Levitt did not have a written contract with Lab-Rel as it had with Saltzstein:

THE WITNESS: Lab-Rel is a Jersey company and Levitt's money was coming out of Long Island, Great Neck, to Saltzstein who was also in the same building as Levitt. It was just a matter of carrying the check upstairs and they forwarded our end of it.

COMMISSIONER FRANCIS: What would that have to do with whether or not you had a written contract?

THE WITNESS: Well I really never had to do with it. They never set up a written contract for me to sign. I signed all Lab-Rel's contracts, but I never signed Lab-Rel's and Levitt. That money just kept coming in. Nobody questioned it.

*Rossmoor Leisure World (1965-1967)*

Rossmoor Corp. of California began constructing Leisure World in Monroe Township in April-May, 1965. The vastness of a project that was to include 30,000 dwelling units, a golf course and shopping malls attracted much press attention and the prospect of thousands of jobs suddenly materializing became apparent to trade unions. Work on the project had hardly begun when Local 35 of the Bricklayers Union and Local 584 of the Laborers Union set up a picket line that was soon joined by the entire Middlesex County Building Trades Council. As a result, Leisure World construction virtually ceased.

Rossmoor's employment of plumber Ed Lubrano as a subcontractor prior to the strike coincidentally led to the corporation's hiring of Saltzstein and Grande as its Leisure World labor consultants. Lubrano recalled in testimony at the S.C.I. that he found himself facing financial difficulties when the picket line halted work at Leisure World. He sought the advice of a New York contractor, Ben Okin, who had long been his principal plumbing materials supplier. Lubrano and Okin shared another bond: Both had ties to organized crime—Lubrano with the seashore rackets boss Anthony (Little Pussy) Russo of Long Branch and Okin with associates of Gambino in Brooklyn. As a result of Okin's intervention, Lubrano met Saltzstein and Grande and they asked him to arrange for their employment by Rossmoor. Lubrano told the S.C.I. that he thus became Saltzstein's and Grande's "leading lady" at Leisure World. Rossmoor subsequently hired Saltzstein and Grande as labor consultants and soon afterward, on June 11, 1965, an agreement was reached on a collective bargaining contract and the picket line was withdrawn.

Rossmoor's labor consultants Saltzstein and Grande then helped to negotiate contractual concessions that the corporation wanted from the Middlesex trade unions. For example, Harry F. Wilson, who was Rossmoor's project manager in 1965, told the S.C.I. he first met Saltzstein and Grande at a plumbers' union local meeting in August of that year. Wilson testified that the union agreed to let management decide how many foremen were to be designated for plumbing work at Leisure World, among other concessions. When Commissioner Patterson and S.C.I. counsel asked Wilson about his reaction to rumors at the project that Rossmoor had hired organized crime associates to handle labor relations, the testimony went as follows:

Q. You had no indication whatsoever that Saltzstein and Grande were connected to the mob?

A. Well, you could assume that they did, yes. But I'm not going to say the mob because I don't know what you mean by "the mob."

COMMISSIONER PATTERSON: Well, you assumed that they were apparently something other than just labor consultants?

THE WITNESS: Correct sir.

COMMISSIONER PATTERSON: What did you assume they were?

THE WITNESS: That they were persuaders, let me put it that way.

Although some Rossmoor officials acknowledged only that Rossmoor used labor consultants as a regular practice and others admitted that Saltzstein and Grande were the consultants, no one would take responsibility or identify who was responsible for hiring them. Rossmoor officials also had only vague recollections about how much Saltzstein and Grande were paid. One executive, James E. Cooper of Jamesburg, who succeeded Wilson as Leisure World manager in 1966, was questioned at the S.C.I. about a "personal" memo he wrote in October of 1967 specifying that \$50,000 had been budgeted for labor relations. Asked to explain this \$50,000 allocation, Cooper professed an inability to recall the actual circumstances except that he assumed he was under orders from Rossmoor in California.

Rossmoor ceased all construction under its own name at Leisure World by September of 1967. However, Rossmoor resumed housing activity in New Jersey at a later time but under different corporate auspices in which it retained a hidden interest—a device that nullified the Rossmoor-Middlesex building trades compact and enabled other construction projects to be launched under the protection of sweetheart contracts negotiated with a mob-controlled union. Meanwhile, Saltzstein and Grande sold their labor relations services to other housing builders in New Jersey.

#### *Boise-Cascade Building Co. (1967-1972)*

Soon after Boise-Cascade Building Co. began its mass housing construction projects in New Jersey in the Fall of 1967, it retained Saltzstein and Grande to keep its operations nonunion. A significant circumstance of Saltzstein's and Grande's new labor relations assignment was the previous employment of three Boise-Cascade officials by the Levitt company when it was capitalizing on the labor influence of these Gambino associates. It was not difficult for such corporate officers, whose careers depended on the success of Boise-Cascade's housing endeavor, to assume that a practice Levitt had found to be worthwhile would also inure to Boise-Cascade's benefit. One of the three former Levitt employees was Ernest Hurwitz, who activated Boise-Cascade's New Jersey housing program with a project called Mill Lake Manor in Spotswood in Middlesex County. When Hurwitz began negotiating with Saltzstein and Grande, Saltzstein initially demanded cash pay-

ments for his labor consultancy. Hurwitz's testimony at the S.C.I. included this exchange:

Q. Did you ever discuss with Harry Saltzstein the fact that these payments would be made in cash with the purpose of avoiding paying taxes on it and the fact that it would amount to a crime?

A. No, I didn't discuss that at all with Saltzstein.

Records of the transactions with Saltzstein indicated that the final arrangements called for fees of \$40 per house and a \$1,000 retainer. Although Saltzstein received payments from February, 1969, until March, 1970, he submitted only one invoice, for \$750. During that period Saltzstein received \$14,842 for the homes erected at Mill Lake Manor and another \$3,560 for the units built at Boise-Cascade's Lakewood project, A Country Place, for a total of \$18,402.

Hurwitz testified at the S.C.I. about Saltzstein's function on behalf of Boise-Cascade:

Q. So, essentially, then, Saltzstein was supposed to maintain your company in a nonunion status?

A. Yes.

Q. For as long as possible?

A. Yes.

When Saltzstein suffered a stroke, Grande assumed his role as Boise-Cascade's labor consultant. Hurwitz recalled that he nonetheless continued to pay Saltzstein. However, just prior to Hurwitz's departure from Boise-Cascade in 1970, there was a more substantive change in the Saltzstein-Grande operation. Hurwitz was notified that all labor relations activities would be handled by Lab-Rel Consultants, Inc., and that this company consisted of Grande and Lubrano. Hurwitz already knew Lubrano because he had hired him as a Boise-Cascade plumbing subcontractor at Saltzstein's and Grande's request. According to Lubrano, when Lab-Rel was dissolved in 1971 after the FBI began investigating his and Grande's activities, the labor relations fees were incorporated into Lubrano's plumbing contracts either through fictitious invoices or by adding an extra payment on the contracts. Lubrano insisted in his S.C.I. testimony that this revised procedure was approved by Boise-Cascade. Payments totalling more than \$20,000

were paid to Lab-Rel until early 1971, when the Boise-Cascade contract with the Grande-Lubrano firm was cancelled.

John Hopkins of Bay Head, who was part of a new managerial staff Boise-Cascade assigned to New Jersey in 1971, testified at the S.C.I. that Lubrano was a labor consultant on all three of Boise-Cascade's New Jersey projects and a plumbing subcontractor on two of them. Hopkins' testimony indicated that the organized crime background of the corporation's labor consultants was no secret in corporate circles:

*Q. Going back to what these various people in the company told you about these labor relations contracts, did each of them tell you specifically it was their opinion these were legitimate labor relations contracts?*

*A. I don't want to say what they—what I think they thought. They told me we were not the only ones doing it, but Kaufman and Broad had a similar contract and Levitt had a similar contract and all of the builders in the state of New Jersey.*

*Q. Did they describe to you what the nature of the services provided under this labor relations contract were?*

*A. To the best of my recollection, it was that it kept us from being bothered by the unions.*

*Q. Did they explain to you how this service functioned, how it was that this contract could keep you from being bothered by the unions?*

*A. That the people involved were well connected with the unions and through this payment of money to them, they acted on our behalf if the unions intended to organize us. They could intercede on our behalf and they were knowledgeable in the labor relations field.*

*Q. Did Paul Burgess, Gene Fishkind or Desrael Putterman or anyone else at Boise-Cascade indicate to you that the connections that Lubrano had and his partner Grande had had something to do with the Mafia, with the mob connections that they might have had?*

*A. Yes.*

*Q. What did they tell you?*

*A. They indicated they were connected with one of the (organized crime) families.*

Hopkins had known Lubrano for a year before he met the plumber's partner Grande. Lubrano arranged a luncheon at Brione's, a known mob meeting place in Brooklyn, specifically for the purpose of introducing Hopkins and Grande. As with other employees of Boise-Cascade and other builders in New Jersey, this was one of several such introductory meetings with Grande at Brione's. It was during these restaurant sessions that Hopkins grew to fear Grande. In fact, Lubrano testified later in Federal District Court that builders left Brione's "soaking wet" with sweat.

In the Spring of 1971, the parent corporation of the Boise-Cascade Building Company decided that residential construction in New Jersey was too costly and that it should sell out. By the end of 1972 Boise-Cascade was in the process of selling its last holdings.

*Kaufman & Broad Homes, Inc. (1969-1973)*

By the time Kaufman & Broad Homes, Inc., began housing construction in New Jersey in 1969, Saltzstein had retired to Florida. As a result, when Kaufman & Broad officials were told a labor consultant would be needed, they turned to Lubrano's and Grande's Lab-Rel company. The transactions that followed led to federal indictments of Grande and Lubrano in 1977 for various extortion and labor racketeering conspiracies against Kaufman & Broad "in return for protection from labor difficulties" at construction projects.

Lubrano pled guilty and agreed to cooperate with the Government against Grande and others. When he entered his plea, Lubrano described in Federal Court how he and Grande operated:

**THE COURT:** . . . Tell me exactly what you did, who you did it with, and what happened.

*A. Well, sir, I had a plumbing corporation company. I was a plumber in the plumbing business performing contracts. I met Mr. Palimeri, Mr. Grande at the time. I never knew him as Mr. Palimeri. I was offered a good piece of money to collect for labor*



protection from unions from different things, job stoppages and whatnot on the jobs. At the time I was pretty well out of funds. I just came off of bankruptcy, starting back in business, and it intrigued me. We did collect money without a doubt for the labor protection.

Q. Tell me in more detail how you went about this, how the money was obtained and how the people were induced to pay it, etc.

A. I spoke to the people. I told them that they would be protected in every way, shape or form as far as stoppages or union interfering or whatnot on the jobs, which they knew about and we were talking about. For that, they paid me fifty dollars a house, which I collected either—

Q. Who paid?

A. Kaufman, Broad, Boise, many people. I collected this money into my company and then I got it out in cash or many other ways.

Q. You got fifty dollars a house, and did you share fifty dollars a house with Palimeri?

A. I shared twenty-five dollars with Mr. Palimeri and twenty-five dollars I kept in the business.

Q. In other words, were any of these victims threatened with labor unrest or labor difficulties, or threatened with any untoward event of any kind, if they didn't pay the money?

A. At different times, yes, sir. I did threaten them that payments were slow or not timely.

Q. How did you and Mr. Palimeri get the clout to effectuate these threats? What was there about you two that would make people pay you money?

A. Nothing about me, sir. But Mr. Palimeri was known to have clout for many, many years. He was a contact with big people and people knew about it.

Q. And then the mere mention of his name induced these people to come across with the money?

A. That's all it took . . .

When Grande pled guilty to the charges he also admitted to the Court why he was culpable. Following are some of the questions put to Grande in open court and his responses:

Q. How did you know that Lubrano was doing something crooked with you?

A. How do I know? By him using me. You understand, going back to Kaufman and Broad and telling them, you understand, that I was the labor guy, that I would do everything he wanted me to otherwise they would hit him, you know; labor would hit him . . .

Q. You had knowledgeability or influence in labor circles?

A. A little bit. I got a lot of friends in labor.

Q. I take it Lubrano was, according to your version, of the events, Lubrano was leading Kaufman and Broad to believe if they didn't obey your request to give Lubrano more money—

A. I would give him labor problems.

Q. You would see that they had labor problems?

A. They had strikes. They couldn't get workers, etc.

Q. Yes. You knew Lubrano was using you in this way; using your name in this way?

A. That's right.

Q. At that time, was something said that would lead Kaufman and Broad to believe that if they didn't give Lubrano more money, then you would instigate some labor difficulties for them?

A. Yes.

Q. You were connected with the trade unions?

A. Yes, sir.

Q. You knew that Lubrano was using you to extort money out of these people?

A. Yes.

Q. *You knew that was wrong?*

A. I knew, yes, I did. I am sorry, your Honor, I made a terrible mistake. I got myself—I got myself convicted for life.

On June 16, 1977, Grande received a three-year prison sentence on each of two counts, the terms to be served concurrently, and a \$5,000 fine. On July 12, 1977, Lubrano appeared for sentencing and received the same custodial term and fine as Grande. Lubrano cooperated with the S.C.I. while he was in custody and after his release.

#### PART 2—DECALCANTO CRIME FAMILY CONSULTANTS

When Saltzstein and Grande were utilizing Gambino's underworld power at New Jersey housing sites, their activities constituted an extension of New York-based labor consultancy services primarily for New York and other clients who had no New Jersey origins. Because of the "respect" that harmonized the dealings of crime bosses with adjoining but sometimes overlapping jurisdictions, no crime family conflicts developed between Gambino in New York and DeCavalcante in New Jersey. By 1969, however, DeCavalcante's crime family members and associates emerged as a separate source of influence over labor relations at certain housing sites. An apparent factor in this transition was the decision by some out-of-state builders to establish New Jersey companies and subsidiaries to initiate new projects or to expand existing projects in this state. Although such corporate actions sometimes were legal fictions masking continued control by the parent corporation, they nonetheless reduced DeCavalcante's deference to Gambino.

The increasing influence of DeCavalcante's associates in labor relations profiteering was marked at the outset by their use of the Warehouse and Industrial Federated Union Local 242. Although this so-called "paper local" boasted a legal charter, little else justified its existence since it maintained no stable membership rolls or dues collection procedures. Its primary function was to provide labor and other services for mob-controlled companies.

The Commission's inquiry indicated that Grande orchestrated the use of a Local 242 as a labor relations guise with Joseph (Whitey) Danzo, then of Piscataway. Danzo was president of the local in 1969 when Guardian Development Corp. was created with

Rossmoor's assistance to complete the first portion of its Leisure World project. Guardian signed a "collective bargaining" agreement with Local 242 to avoid being subjected to a Middlesex Trades Council labor contract such as Rossmoor had been forced to sign. Danzo's Local 242 subordinate was another organized crime associate, Frank (Tiger) LaVecchia. According to Lubrano, LaVecchia was to Danzo what Lubrano had been to Grande—at the outset a friend, an errand boy, a chauffeur and a labor confederate, and later a deal-maker capable of mob-type labor consulting in his own right.

Danzo's underworld credentials included personal family ties of considerable organized crime repute. He was a cousin of Frank Celano, a member of the Geneovese crime family, and was connected to the Colombo crime family by his daughter's marriage to the since-deceased Salvatore (Fat Sal) Profaci, Jr., a real estate salesman who was the nephew of crime boss Joseph Profaci. Danzo's son-in-law was a cousin of Joseph Profaci's son, also named Salvatore Profaci, a resident of Holmdel and a publicly identified member of organized crime. When Danzo moved to New Jersey from New York in the 1950s, he and DeCavalcante instituted various labor racketeering schemes, including the utilization of Local 242 for negotiating sweetheart contracts whereby certain employers—including mobsters—benefitted at the expense of working men and women.

LaVecchia's organized crime links are confirmed not only by the DeCavalcante wiretap transcripts but also by other law enforcement intelligence sources available to the S.C.I. LaVecchia became Danzo's friend in the late 1950s when he ran a bookmaking operation in Union County. LaVecchia became a business agent for Danzo's Local 242 in 1969.

#### *Rossmoor and Local 242*

Lubrano told the S.C.I. that Rossmoor's president Ross Cortese continued to construct Leisure World for 18 months after signing the 1965 Middlesex Trade Unions' agreement but that "it was rough all the way." When Rossmoor finally decided to sell out, he said, it was persuaded by Grande to use Danzo's Local 242 to break the Trade Union Council's contractual grip on Leisure World. Lubrano testified:

Q. *And what happened eighteen months later?*

A. Eighteen months later, this Cortese was told at

some meetings—I was told directly by Mr. Grande what was happening. They shut the job down, let it cool off for a year and come back nonunion. He had given them what they promised and now he could come back as a small housing job, one section at a time and get away from that publicity.

*Q. And, therefore, wished to get the unions out of his operations?*

A. Out of his operation.

*Q. How was that arrangement reached?*

A. Well, there was a meeting between Tony Grande, myself, and Whitey Danzo, who owns that local.

*Q. What was discussed?*

A. That Whitey, which is Mr. Danzo, would proceed to take over the labor relations end of it, and we would completely back out and disappear and one-third of the fee would come to New York.

*Q. You said that Cortese later came back doing business under another name?*

A. He had formulated Guardian Development. He put Aaron Cross to represent it and Mr. Grande told me Cross had bought Forsgate Country Club from Cortese.

*Q. Was there a formal executed document?*

A. The fact that he had his charter. If you learn the union setups, once you got a good local and a charter to operate, the charter has to be respected.

*Q. In other words, the other union, the other internationals, would respect the fact that Danzo was the union's representative for a certain group of employees and they would not invade his territory?*

A. Right.

*Q. Who else was present besides the three of you?*

A. Tiger LaVecchia at one time. That's Whitey's man. Also, a couple of the building trades, the general people that were affected here and there. They were told the job was going to quiet down.

*Rossmoor and Guardian Development Corp.*

On October 24, 1968, an agreement was reached by Rossmoor to sell the Village One section of its Leisure World Project at the New York law office of Solomon Eisenrod. The sale, it was agreed, would be made to a new corporation, Guardian Development, with Eisenrod as board chairman, and owner of almost two-thirds of its stock, and with Rossmoor employees Cooper and Aaron Cross splitting most of the remaining stock as president and vice president respectively. A sequence of complex transactions ensued that, according to the S.C.I.'s review of pertinent documents, was designed to hide the actual ownership by Rossmoor of a one-third interest in Guardian Development. This conclusion was supported by testimony at the S.C.I. of Cooper, who had been Rossmoor's Leisure World manager. Cooper testified in part:

CHAIRMAN LANE: Rossmoor allowed you to go into this arrangement according to your testimony, without any risk at all on your part except your time and they had nothing to gain?

THE WITNESS: Sure, they did. They were going to own the stock, which they ultimately did wind up with the stock. But that's true. I was allowed to get into it with nothing except my expertise, which I consider worth a lot of money.

*Q. In other words, you were simply a middleman between the Rossmoor Corporation in California and the Guardian Corporation in New Jersey?*

A. I don't know if I like the use of the word "middleman." You know, I don't know what that means.

*Q. How about if we use the word "straw-man"?*

A. That doesn't suit it either.

*Q. That is commonly—if your name is on the stock but it's their investment, do you understand that to be a straw-man situation?*

A. Use the term you want to. To me, it's not important.

Cooper confirmed that Rossmoor's interest in Guardian was concealed not only to prevent any continuing burden of Rossmoor's

1965 agreement with the trade unions but also to pave the way for the Guardian to contract with Danzo's Local 242, thereby barring AFL-CIO unions from negotiating a new agreement. Cooper's testimony demonstrated that the Local 242 contract gave Guardian the appearance of operating a unionized project. As a result, whenever a business agent from a Trades Council union visited him, Cooper testified he could say he "was signed with 242 and . . . they left me alone."

Although Gambino's man, Grande, was supposed to have ceased his labor relations activities for Rossmoor when it discontinued construction at Leisure World in 1967, his reappearance at the project as Rossmoor was selling it and his later labor relations work with Lubrano were described to the Commission by Lubrano and Cooper and corroborated by the S.C.I.'s own investigative findings.

*Rossmoor and Aaron Cross Construction Co.*

In February, 1971, the Rossmoor Corp. created Aaron Cross Construction and transferred to it a 620-acre piece of its Leisure World project. Cross Construction was even more dominated by Rossmoor than Guardian Development had been and for the same reasons: To assure that its 1965 collective bargaining contract with the Middlesex Trade unions would not be a carry-over obligation and to enable Cross Construction to also negotiate a self-serving labor agreement with Local 242.

Rossmoor's control of Cross Construction is demonstrated by the manner in which it was created and administered. Cross, who had worked for Rossmoor since 1952, began looking for other employment while he was acting for Rossmoor as vice president of Guardian Development. Rossmoor's Ross Cortese suggested that Cross complete the development of Leisure World, according to Cross' testimony at the S.C.I., and agreed to lend him money from which he could draw an annual salary of \$35,000. Rossmoor drafted the option agreement transferring Leisure World acreage to Cross and the site plan for its development. Rossmoor's control of Cross Construction was confirmed by Cross in his S.C.I. testimony:

Q. *Is it a fair statement to say Rossmoor owned the land, financed the construction and had complete control of the project and actually hired Aaron Cross Construction as the general contractor on the job?*

A. Yes.

Q. *And you were answerable to the dictates of Rossmoor?*

A. Oh, sure.

*Aaron Cross Construction Co. and Local 242*

Aaron Cross first met Local 242's Danzo and LaVecchia while he was vice president of Guardian. As a result, when Cross Construction Co. was formed, Cross asked Danzo if he would also handle labor relations at Cross' Clearbrook project. Cross testified at the S.C.I. about his new connection with Local 242:

Q. *When you formed your own company known as Aaron Cross Construction Company, did you also take the same steps of signing a contract with 242?*

A. Well, not as such. When Ross offered me—and if I could get something going with it and I just saw Joe on a daily or whatever two-day basis, I asked him if he was going to handle the labor over in 242 for me, too, and he said, yes. In other words, we didn't have a meeting and sit down and have the agreement and hash over an agreement or anything like that.

Q. *Well, you asked Joe Danzo, "Would you handle the labor on my new project?" Correct?*

A. Yes.

Q. *And he agreed to do so. Correct?*

A. Yes.

Q. *And by reaching that agreement, you received the same benefit that Jim Cooper had received at Guardian. Correct?*

A. Correct.

*The Local 242 "Umbrella"*

As with Guardian, Cross Construction could operate on a non-union or open-shop basis, ignore the various trade unions in seeking competitive bids from subcontractors and award the contracts to the subcontractors who employed nonunion workers. Cross testified that the Local 242 contract served as an "umbrella" sanctioned by federal labor law against the trade unions:

Q. *The question really is: What makes, in your opinion, 242 so much more effective for the contractor's purposes than the building trades?*

A. Because you are hiring qualified—you were hiring qualified subcontractors. Either they were already members of Local 242 or you put them in Local 242.

Q. *What you're really saying, then, I guess, is that under 242 you could select, in effect, the workmen first and then put them into the union?*

A. In other words, like when I was supplying the job—what you're saying is absolutely correct.

Q. *Under the building trades, you had to accept whatever workers were sent to you from the building trades?*

A. Yeah, generally speaking. Doesn't work exactly like that, but that's close enough.

Q. *Is it fair to say that signing a contract with 242 really had the sole purpose of keeping the Building Trades Council off your back? Isn't that what you meant by using the umbrella provision of the Taft-Hartley Act?*

A. That's correct.

#### *Background of Local 242*

In an effort to determine the validity of statements by various labor union witnesses that Local 242 was a sham union designed only to benefit employers at the expense of workers, the Commission questioned Kenneth Friedman of Merrick, N. Y., under a grant of immunity. Friedman was a top officer of Local 242 from 1971 to 1976, when it went out of existence. According to Local 242's meeting minutes, Friedman became its business agent in May, 1971, and its president on May 23, 1972, after Danzo had retired as president on October 15, 1971. Friedman recalled at the S.C.I. that he discovered potential illegalities in Local 242's files and investigated the Guardian and Cross Construction contracts with the local. As a result of this inquiry, Friedman said he determined that Local 242 was not representative of the workers at Guardian's project and at Cross' Clearbrook. He testified that no

union shop stewards serviced their contracts, that no one settled grievances, that no pension or hospitalization benefits were being paid, that the contracts did not require employer contributions for these purposes, that dues were being received from employers without checkoff authorization cards, among other deficiencies. Friedman said he subsequently "terminated" the Local 242 contracts with Guardian and Cross Construction by registered letters to the companies.

#### *The Payoff to Danzo*

Cooper and Cross conceded that their companies received substantial benefits by contracting with Local 242 but denied that Danzo received anything in return. Despite these denials of any payoff, the Commission learned that Danzo in March, 1976, acquired a parcel of more than 31 acres of land from Rossmoor at a price that was \$49,000 below its \$79,000 market value. Some years later Danzo erected a home on this land at wholesale cost with Guardian's help and other builders and subcontractors helped Danzo develop the tract as a horse farm. The 31-acre plot, part of the original development that Rossmoor had planned in 1965, had been leased to Danzo by Rossmoor four years prior to Danzo's decision to buy it.

Michael Guerriero, the vice president of Cross Construction who also was Rossmoor's agent in selling its remaining landholdings, testified that he did not know how, when or why Danzo undertook the transactions involving the 31 acres he eventually bought for a mere \$30,000. Following are excerpts from Guerriero's testimony at the S.C.I.:

Q. *Mr. Guerriero, regardless, really, of when Danzo exactly expressed an interest in this property, one thing stands clear: Joe Danzo was your union representative at the time you executed that lease with him. Is that correct?*

A. Local 242 was, yes.

Q. *And wasn't Joe Danzo the union representative from Local 242?*

A. I believe so.

Q. *Did you ever perceive that to be a conflict of interest of any sort?*

A. No.

Between the time Danzo signed the lease-option agreement in 1972 and bought the farm in 1976, about \$75,000 worth of improvements were made on the parcel, including a half-mile race track, a stable with 39 stalls and attached office, a rail fence along the entire perimeter, as well as curbing, road widening and sewer lines. The Commission's review of Danzo's financial records disclosed expenditures of only \$12,000 by him on the horse farm between 1972 and 1978 and corroborated testimony that various Guardian and Cross subcontractors made most of the improvements free of charge or at reduced cost. Samuel A. Smith, operations manager for Guardian since 1971, identified five subcontractors who worked both on Guardian's projects and on Danzo's home. Cooper at first denied and then admitted authorizing invoices for work and materials at Danzo's house to be processed through Guardian. He testified that he was willing to do a favor in return for a favor—the favor in this case being the Local 242 contract.

*Danzo and LaVecchia as Labor Consultants (1971-1977)*

Danzo and LaVecchia abandoned Local 242 as a labor relations mechanism in 1971-72 and began to be retained as a team operating through a LaVecchia company known as Relative Land Associates, although they also used other similarly named companies for the receipt of fees. Danzo was regarded as LaVecchia's superior, even though LaVecchia made most of the field contacts, but they generally shared their fees until advancing age and increasing ill health began to overtake Danzo in 1978. Danzo died in 1981.

The first client of Danzo and LaVecchia as individual labor consultants was the Texas-based Lincoln Property Co., in May, 1972.

*Lincoln Property Co. at Princeton Meadows*

Aaron Cross, whose Cross Construction Co.'s Clearbrook project was still operating under its "sweetheart" contract with Local 242, led Danzo and LaVecchia to Lincoln Property Co.'s Princeton Meadows project in Plainsboro. This contact was arranged when Operating Engineers Local 825 established a picket line at Princeton Meadows shortly after construction began. The appearance of pickets surprised Daniel M. Murphy of Holmdel, who had come to New Jersey in 1969 as Lincoln Property's regional vice president, since he had been under the impression that residential construction in New Jersey was traditionally nonunion. Murphy asked Cross for help and Cross arranged a meeting with Danzo and LaVecchia. According to Murphy, he then negotiated a verbal

agreement to employ Danzo and LaVecchia as his company's labor relations consultants and to pay their fees to Relative Land Associates. About a week later, the picket line at Princeton Meadows was removed.

The Lincoln Property Co.'s first labor relations payments consisted of \$2,500 in two checks, dated May 24, 1972, to Relative Land. During the next five years, Lincoln Property made payments of sizeable but varying amounts to LaVecchia, Danzo or Relative Land for labor relations services at Princeton Meadows—totaling more than \$174,000. Murphy testified at the S.C.I. that he knew very little about what Danzo and LaVecchia did to earn these fees beyond "discussions in the field" but he credited them with maintaining an "umbrella" against labor union difficulties.

Lincoln Property and certain subcontractors at Princeton Meadows also provided Danzo and LaVecchia with additional cash and other benefits. Claus Raven of R and S Landscaping, an earth-moving contractor on the project, made five payments totalling \$16,000 either to LaVecchia or to Relative Land. Raven told the S.C.I. these payments were supposed to assure that LaVecchia would resolve prospective labor problems. The masonry company at Princeton Meadows, Kon-Form Contractors, Inc., not only gave \$1,500 to LaVecchia but also performed about \$6,000 worth of cinder block work on Danzo's horse farm. A Kon-Form owner testified at the S.C.I. that the \$1,500 was reimbursed by means of a fictitious invoice to Lincoln Property and that most of the bill for the masonry work at the farm was paid by Lincoln Property rather than by Danzo, also through a fictitious invoice.

*Aaron Cross Construction at New World*

Once Danzo and LaVecchia made the transition from union representatives to labor consultants, they maintained the latter function even with a company—Aaron Cross Construction—that already had a Local 242 contract. By 1973, Cross Construction had expanded its operations to a project in Evesham Township (Burlington County) called New World. When Cross asked Danzo and LaVecchia to extend the Local 242 contract at Clearbrook to cover the Evesham project, they advised him that he could receive the same services Local 242 had provided by hiring them individually as labor consultants. Cross did so on March 7, 1973, and paid them through Relative Land Associates almost \$15,000 over the next twelve months. (The New World project at Evesham was actually owned by the Rossmoor Corp.).

*Dover Heights and Village Harbour*

Having extended their labor consultancy business into South Jersey, Danzo and LaVecchia began seeking additional consultancy work in that part of the state. One of their tactics in this expansion was to confront builders with actual or threatened work stoppages and then promote their availability as problem solvers. They promoted this ruse first at the Dover Heights project in Dover Township (Ocean County). The Dover Heights scheme failed to produce a payoff to Danzo and LaVecchia but it set a pattern for a more remunerative deal at Village Harbour, the Lincoln Property Co.'s project in Manahawkin, also in Ocean County.

The Dover Heights project, originally known as Cadillac Heights, was purchased and renamed by Joshua A. Popkin in 1972. Popkin told the New Jersey State Police and later the S.C.I. that in early December, 1972, he was visited by LaVecchia's friend, landscaping contractor Salvatore (Sam) Scarpulla, who was seeking work. As part of his sales pitch, Scarpulla said if he got the Dover Heights landscaping contract the project would not have labor union problems. Popkin responded that he would keep Scarpulla in mind. A day or two after Christmas Scarpulla again visited the project, this time with James P. Patterson, a representative of Local 1107 of the Carpenters Union. This time Scarpulla and Patterson told Popkin that he must sign a union contract or he would be picketed. On December 28 a picket line appeared at the project, remained for a few days and then disappeared. About two weeks later, Popkin was visited by LaVecchia, who introduced himself as a labor relations consultant. LaVecchia told Popkin he was responsible for removing the picket line and that if a similar situation ever developed, Popkin should give him a call. Popkin said he never called or utilized LaVecchia. Having obtained Patterson's personal diary, the S.C.I. established that this Carpenters Local 1107 agent maintained a constant liaison with both landscaper Scarpulla and labor consultant LaVecchia. Patterson testified at the S.C.I. that Scarpulla and LaVecchia contrived the picket line scheme in an attempt to intimidate Popkin.

The Village Harbour project, originally called Shelter Bay, was acquired and renamed by Lincoln Property in March, 1973. Jay C. Cranmer, an operating partner of the company, was in charge of this Manahawkin project when pickets appeared on May 12, 1973, according to the personal diary and other documents obtained from Patterson, the same Carpenters Local 1107 business agent who had confronted Popkin with a picket line at Dover Heights. Cranmer

testified at the S.C.I. that he called LaVecchia, whose name he knew because his superior, Eric Eichler, had told him LaVecchia had solved labor problems at Lincoln Property's Princeton Meadows project. Cranmer asked LaVecchia to talk to the pickets or their leaders. According to Patterson's diary, the picket line was removed May 22, the day that Patterson attended a meeting with Lincoln Property's construction manager and LaVecchia at the project. It was not a coincidence that LaVecchia attended this meeting. The day before the pickets disappeared, Cranmer made his first labor consultant's payment of \$15,000 to LaVecchia at Village Harbour.

Patterson contended in his S.C.I. testimony that he did not realize LaVecchia was prompting him to create labor strife at housing projects only so LaVecchia could be hired as a labor consultant who could "settle" such problems. Looking back, Patterson conceded, LaVecchia's ploys made him feel "kind of ridiculous."

*Q. My question is was LaVecchia working both sides of the fence?*

*A. Well, evidently from what I know now he was, but I didn't at that time.*

*THE CHAIRMAN: I understood it was well settled on this record that the time he was encouraging you to put up picket lines you knew he was a labor consultant for the contractor or management on the job?*

*THE WITNESS: Right.*

*Q. The Chairman's question was whether LaVecchia was using you to make himself look good in the contractor's eyes?*

*A. He must have been.*

*Q. How does that make you feel?*

*A. Now, kind of ridiculous.*

On April 1, 1974, Lincoln Property issued a second Village Harbour check for \$15,000 payable to Danzo's and LaVecchia's Relative Land consultancy business. LaVecchia got \$7,500 from Village Harbour in 1975 and that project in 1977 paid Danzo \$15,000, two-thirds of which was for services at the company's Greentree project launched that same year in the Marlton section of Evesham Township. In all, payments to this corporate front and/or to Danzo and LaVecchia for labor relations work at Village Harbour ultimately amounted to \$103,000.

*Investigation and Trial of LaVecchia et al (1975)*

Robert Eugene Johnson, a fill-dirt and grading subcontractor, who had worked on Danzo's farm but wasn't paid, was a subcontractor at Lincoln Property's Village Harbour project. Johnson subsequently was introduced by LaVecchia to two officials of Operating Engineers Local 825, Pat Hagen and Pat Merola. Events that followed that introduction led to state grand jury conspiracy indictments in 1975 of LaVecchia, Hagen and Merola for bribery and extortion of kickbacks to guarantee labor peace at Johnson's jobs. The allegations were brought to trial in 1975. Hagen and Merola were convicted and LaVecchia was acquitted.

*Mob Feud Over a Subcontractor (1977)*

Randy Scarborough of the Scarborough corporation in Cherry Hill told the S.C.I. that his company utilized LaVecchia as a "contact" man when it expanded its operations into Ocean and Monmouth counties in 1972. Scarborough said LaVecchia's function was to advise the company on its employment of subcontractors. Warren Mack, who worked for Scarborough from 1972 to 1974, was its Weybridge project manager in 1972. He testified at the S.C.I. that LaVecchia checked on the qualifications of at least two subcontractors who subsequently worked at Weybridge. One of these was JRH Electric. Five years later, JRH Electric was the topic of an organized crime meeting which Mack attended at LaVecchia's request.

The Commission has verified that the meeting was held on August 5, 1977, at the Hightstown Hilton Inn near the New Jersey Turnpike's Exit 8 and was attended by Danzo, LaVecchia and Sal Profaci of Holmdel. Profaci was present as the mediator of an argument between LaVecchia and Robert (Bobby Basile) Occhipinti, an associate of Anthony (Little Pussy) Russo, the seashore rackets boss (murdered in 1979). Occhipinti, who had an interest in JRH Electric, had complained that LaVecchia had shortchanged the subcontractor on housing project contracts, despite LaVecchia's and Danzo's recollection of LaVecchia's promotion of JRH at the Weybridge project five years earlier. Mack was summoned to this meeting by LaVecchia and confirmed his utilization of JRH in 1972. Mack's explanation at the Hightstown lunch of LaVecchia's intercession on JRH Electric's behalf convinced Profaci, the mediator, that Occhipinti's complaints were without basis. He so ruled and that ended the dispute.

TRANSITION TO CURRENT PRACTICES (1977-1981)

By 1975 a decline in Danzo's and LaVecchia's labor relations activities had occurred. The only builder who continued to retain Danzo and LaVecchia during the latter's indictment, trial and acquittal was Lincoln Property Co. However, after LaVecchia was acquitted, he and Danzo began obtaining new clients.

*U. S. Home Corp. (1977-1979)*

Philip Frank, president of U. S. Home's New Jersey division, told the S.C.I. that all of his company's housing projects were "run nonunion throughout Ocean or Monmouth counties." When U. S. Home expanded into Middlesex County in 1977 with its Princeton Collection project in Plainsboro, Frank testified that reports from other builders of previous problems with the Middlesex trade unions made him uneasy. He said a Lincoln Property Co. project manager with whom he had discussed the labor union situation sent LaVecchia and a companion Frank recalls only as "Joe" to see him. With his company's permission, Frank agreed to pay LaVecchia \$15,000 a year as a labor consultant. Frank conceded that he acted without any effort to ascertain the personal or business background of LaVecchia or his friend "Joe," as demonstrated by the following extract of his testimony at the S.C.I.:

COMMISSIONER PATTERSON: Mr. Frank, it's difficult for me to believe that your national headquarters would so easily approve a fifteen-thousand-dollar a year expenditure when you have had—for a man to help you in union problems should they come up when you had six or seven other projects and had no union problems in those. Some of those projects were in New Jersey. In fact, all but one was in New Jersey, if I recall, and that you had no indication or no evidence that you were going to have any union problems . . . in the Princeton Collection area. It would seem to me, if I were your boss, I would want some concrete evidence, arguments, other than somebody saying you ought to hire the guy before approving the decision.

THE WITNESS: Well, I related the same thing I just related to you. I told—



COMMISSIONER PATTERSON: You haven't related to me anything that would convince me that you needed a labor consultant.

THE WITNESS: Well, I felt I did. It was a business decision on my part and that was it.

COMMISSIONER PATTERSON: And you made it strictly on the basis—

THE WITNESS: Of what I heard.

COMMISSIONER PATTERSON: —of two people recommending if you ever got—ever had labor problems, this was the person to hire?

THE WITNESS: Yes.

THE CHAIRMAN: What did you tell your company when you reported this and got permission to hire this consultant so-called? What did you tell your company he was going to do for you or for them?

THE WITNESS: He was going to act as a liaison should there—any problems arise, and he would sort of help talk to these people because I couldn't relate to them.

THE CHAIRMAN: With no more definition than that?

THE WITNESS: No more definition than that.

THE CHAIRMAN: You operate apparently differently than most corporations if you don't look into a person's resume, where he's been, where he came from, why and how, what he did. That didn't occur to you?

THE WITNESS: Not on that occasion.

Several weeks after LaVecchia was hired, he submitted an invoice under the letterhead of Relative Associates on September 26, 1977. A \$15,000 check in payment of that invoice for one year's services in advance was issued by U. S. Home on October 12, 1977. A year later, on September 13, 1978, LaVecchia submitted another Relative Associates invoice for \$15,000 as advance payment for another year's services, which the corporation paid immediately. In September, 1979, LaVecchia's 1980 retainer of \$15,000 was approved but, since Frank never informed LaVecchia and LaVecchia inexplicably never pressed for a third year's pay-

ment, the labor consultancy arrangement lapsed. Frank indicated in his testimony at the S.C.I. why he never bothered to renew the contract:

CHAIRMAN LANE: In that first year, that first \$15,000 year, did you ever see him beyond the time you first met him and retained him?

THE WITNESS: I may have seen him once.

THE CHAIRMAN: Did you see him at all the second year?

THE WITNESS: I thought I saw him once after that.

THE CHAIRMAN: Did you have occasion to call him and complain about union interference or anything like that the second year?

THE WITNESS: No.

THE CHAIRMAN: So, to your knowledge, he did zero for you?

THE WITNESS: Absolutely.

THE CHAIRMAN: For \$30,000 he intervened, so far as you know, at least the problem that you called him on disappeared after the call?

THE WITNESS: Yes, sir.

THE CHAIRMAN: You don't know what he did in relation to that?

THE WITNESS: No, I don't know.

THE CHAIRMAN: At all. And other than that, he did nothing for you for the two years and \$30,000?

THE WITNESS: Yes, sir.

Nonetheless, Frank contended that the deal with LaVecchia gave him peace of mind, the expectation of avoiding construction delays and the satisfaction of knowing someone who could negotiate with union delegates. The labor consultancy contract, he insisted, was like "taking out a fire insurance policy."

*Orleans Construction Co. (1978-1980)*

The Orleans Construction Co. of Huntingdon Valley, Pa., hired Danzo and LaVecchia as labor relations consultants in 1978 after the company acquired an East Brunswick site for a housing project to be known as Lexington Village. The Orleans partner responsible for the Lexington Village project, Jeffrey Orleans, testified at the S.C.I. that he hired Danzo and LaVecchia—now operating as “D & L Associates”—because: “If you go to a new area, you need somebody local who knows the people. We needed somebody who was local in the area.” Orleans eventually conceded that the labor consultants were employed to bring in subcontractors who would operate on an open shop basis without interference from labor unions. Orleans testified on this topic as follows:

Q. *What I would like to know is why do you have to hire a labor consultant or how does it assist the company in hiring a labor consultant to establish an open shop policy for the project?*

A. Invariably in the building business you have certain people who know certain people. It's like you know what contractors can work in certain areas and some contractors can't perform. A good labor consultant when you are new in an area does let you know what trades can be more harmful to you than others. They can recommend certain contractors that can do a good job for you.

Q. *So hire somebody like Danzo and LaVecchia who know which unions are militant in nature and can steer you through the channels so you don't run afoul of that union?*

A. In general I would say that's— you want to know the common practice in an area and by them being local in an area or relatively local in an area.

Testimony about the Orleans company's employment of Danzo and LaVecchia confirmed the Commission's findings that the labor agents obtained valuable fringe benefits from the subcontractors they recommended to a builder. The heating and air conditioning subcontractors who worked for Orleans, for example, performed \$35,000 worth of work on Danzo's and La Vecchia's homes. In all, these and other subcontractors provided services totaling \$60,000 on a house LaVecchia built in Dover Township in 1979. At the time

of the Commission's inquiry into these activities in 1981, none of the subcontractors involved had been paid by LaVecchia. According to testimony at the S.C.I., subcontractors found it important to curry favor with the labor consultants who could recommend them for work at various projects. An air conditioning subcontractor, Marty Indursky, so testified:

*“I am a businessman and Danzo and LaVecchia were on these projects as employees of these projects, to my knowledge, and as such they had a certain amount of authority. I looked to them to recommend me; if I could get a lead from them, it was appreciated. It was something I would do for anybody related to a project that could do us a little good.”*

Having paid \$35,000 to D & L Associates for the consulting firm's initial contractual year, Orleans terminated its relationship with Danzo and LaVecchia on July 21, 1980. Although the 1979-80 contract for a second year retainer still had several months to run, the labor agents were paid the full year's fee. According to testimony before the Commission by Edward J. Zoller, the company's Lexington Village project supervisor, the S.C.I.'s investigation of Danzo and LaVecchia was one of the reasons why Orleans so abruptly cancelled the contract.

*Lanid Corp. (1978-1979)*

In September, 1978, the Lanid Corp. contacted Danzo and LaVecchia when a labor dispute disrupted work at its Forest Glen apartment project in Highland Park (Middlesex County).

According to Lanid president H. Charles (Bud) McNally and project supervisor Harold Fishkin, construction on the project had proceeded smoothly for four months when, without warning, a picket line appeared. Deliveries were held up, construction began to fall behind and, said both officials, panic was setting in. Fishkin testified that when Lanid signed a contract to pay D & L Associates a yearly retainer of \$15,000, the pickets disappeared the following day. Neither McNally nor Fishkin ever bothered to find out how this feat was accomplished since, as Fishkin testified, LaVecchia had advised him not to talk to union officials and to leave all negotiations to the labor consultants. Fishkin stated, in part:

*They sort of made it clear to us when we went to meet with them that they functioned with the business agents in a manner because of their contacts,*

*because of their union affiliation that most people couldn't and, therefore, that's why we weren't to talk to business agents and maybe upset the apple cart and that they could do things, and they were obviously intentionally being a little vague about exactly who they are going to talk to and what was going to happen, but assured us that because of this background they could do it and I thought it was a bit miraculous that they were able to do it in one day.*

Lanid paid D & L Associates \$10,000 in December, 1978 and \$5,000 in October, 1979. The contract was not renewed.

#### *Municipal Building Inspector's Role*

In an effort to pinpoint responsibility for the labor problem at Forest Glen that caused Lanid to hire Danzo and LaVecchia, the Commission learned that the picket line was initiated by Carpenters Local 1006 and that the president of this local was Anthony (Rocky) Giorgianni, the building inspector for Highland Park where the Forest Glen project was located. Frank Daddio, business agent of Local 1006, testified that he established the picket line at Giorgianni's request. Giorgianni denied any involvement but Lanid officials documented demands by him that Forest Glen become a union labor project.

#### *Hills Development Company (1980-1981)*

Fishkin left Lanid Corp. in July, 1980, to become vice-president for Hills Development Co., which was involved with the Allen Deane housing project in Pluckemin (Somerset County). Fishkin told the Commission that in the Fall of 1980 he began receiving calls from an Operating Engineers representative requesting him to hold a pre-job conference with the local trades council on the use of union workers on this project. Fishkin stalled these requests by stating that Hills was not ready to start construction. In the meantime, Fishkin testified, he arranged a meeting with LaVecchia during which company officials expressed a desire to keep the Allen Deane project nonunion in order to maintain its economic viability. A retainer of \$50,000 per year for LaVecchia's services was agreed upon but the contract was not to be signed until actual construction began in the Spring of 1981.

During January, 1981, Fishkin was interviewed by S.C.I. agents about his knowledge of Danzo and LaVecchia. He told the Com-

mission that ever since the S.C.I. contacted him he had been "agonizing" over the propriety of Danzo's and LaVecchia's activities as labor consultants. Consequently, he said, LaVecchia never was signed by Hills Development Co. to a labor consultancy contract.

#### *Linpro Co. (1977-1981)*

The Lincoln Property Co., and its successor company in New Jersey, Linpro, continued to employ labor relations consultants despite widely publicized criminal prosecutions that verified their organized crime backgrounds and their criminal records. Linpro still retains LaVecchia under a contractual facade designed—as this Commission views it—to cloak continuing abuses with an aura of legitimacy. This facade, which includes the substitution of "construction consultant" for "labor consultant" and the stipulation of LaVecchia's required functions and hours of performance, is largely attributal to the S.C.I.'s investigation.

In 1977, the Dallas-based Lincoln Property became two companies when Eichler and various other partners in the Northeast region, from Fairfax, Va., to Boston, established Linpro as an independent offshoot to continue Lincoln Property's New Jersey operations, including the Princeton Meadows, Village Harbor and Greentree projects. Linpro continued the retention of Danzo and LaVecchia and later LaVecchia alone, but only in New Jersey. No other Linpro housing project from Virginia to Massachusetts uses a labor relations consultant.

Since November, 1980, all fees due to Danzo and LaVecchia and then LaVecchia after Danzo's death in 1981 have been made payable by Linpro to the Relative Associates consulting firm. LaVecchia's invoices characterize his company as a "construction consultant" and, apparently reacting to the Commission's inquiries about the lack of definition of labor consultants' hours, duties and work product, LaVecchia otherwise operates under contracts which articulate his specific job functions. For example, Linpro correspondence in November, 1980, confirming the re-engagement of LaVecchia at the Greentree "office project," stated that LaVecchia's services were to "include the evaluation of subcontractors for all phases of construction," and that he was "expected to work directly with" the construction manager in reviewing the bid proposals of subcontractors, inspecting their prior work if necessary and meeting with subcontractors during construction to expedite production. LaVecchia was also informed that "should any labor disputes arise

during the course of construction we would expect you to also assist in resolving same." LaVecchia was to receive \$6,000 for performing his required functions within four hours per week during an eight-to-ten month period. The Greentree office project contract was not the only contract negotiated in November, 1980. It was also agreed that, for an estimated year's services at the Greentree "shopping center," LaVecchia would receive an additional \$17,500 (he had already received \$7,500 in 1979 for his shopping center services). For an estimated seven months of service at Village Harbour, LaVecchia was to receive an additional \$10,000.

Linpro's Princeton Meadows division also re-engaged LaVecchia, on that project's office building—\$45,000 for the next phase of apartment construction, \$20,000 for the project's shopping center and another \$10,000 for the project's townhouses. LaVecchia's contractual services at Princeton Meadows were expected to be completed by the end of 1981, except for apartment construction services which were to continue until May, 1982.

Thus, for all Linpro project services from late 1980 to May, 1982, LaVecchia will have been paid a total of \$113,500. In 1979, when Danzo and LaVecchia were still working as a team, Linpro paid them \$149,800. Altogether, from May, 1972, when Danzo and LaVecchia were first hired by Lincoln Property Co., to May, 1982, when LaVecchia's current Linpro contracts will expire, total labor consulting fees from Lincoln Property and Linpro will have amounted to approximately \$558,000.

#### *LaVecchia Refuses to Answer Questions*

As the Commission concluded its inquiry, it questioned LaVecchia at an executive session. The questions put to LaVecchia included whether he knew or had any relationships with specifically identified organized crime members and associates, with his confederates in the labor agency network, with housing builders and their projects and with labor union officials and labor problems at construction projects. On the advice of his lawyer he invoked his constitutional protection against self-incrimination under the Fifth Amendment and refused to respond.

### **III. Recommendations and Conclusions**

Following are the Commission's recommendations for proscribing such housing project labor relations practices as reviewed in this report.

#### **RECOMMENDATION #1 (FEDERAL REFORMS)**

Federal statutes applicable to the licensing and regulation of labor relations consultants must be strengthened and more adequately enforced.

#### *Comment*

Section 203(a) and 203(b) of the federal Labor-Management Relations Act requires that anyone who is paid to "persuade" employees regarding unionization or supply certain labor force information in connection with a dispute is called a labor relations consultant and must file a yearly financial disclosure. On the basis of such reports, the Labor Department is supposed to maintain a measure of control over labor-management relations to the extent of preventing or eliminating corrupt practices. Since these reports are public documents, they also serve to inform businessmen, labor leaders and the public as to who are acting as labor consultants in a given area, by whom and how much they are being paid, how long they have been in business and other pertinent background information, such as proof that a particular consultant has not violated the criminal law for five years.

However, section 203(c) of the Act provides that a consultant need not file a disclosure report if he merely gives "advice" to an employer. A witness before the House Subcommittee on Labor-Management Relations was quoted as saying that "no provision of the Act caused more confusion or controversy because, although the exemption is clear, the line between advice and persuasion is not". The rule of thumb adopted by the Labor Department is that consultant activity is reportable only when the consultants themselves directly communicate with employees. All behind-the-scenes activity is exempted as advisory. The practical effect of this distinction has been that most individuals who otherwise fit the description of a labor consultant need not file reports. The purpose of filing annual financial disclosure reports has thus been seriously eroded.

An illustration of this erosion occurred during the Commission's investigation. The Commission's agents checked with the Department of Labor office in New Jersey only to discover that none of the consultants mentioned in its inquiry had filed any disclosure reports—nor did any of the companies that hired them, as is also required. The Commission also experienced a tactic for avoiding application of the federal statute. Among the materials subpoenaed from U. S.

Home Corp., the S.C.I. examined inter-office correspondence wherein Philip Frank, division president, after he retained Danzo and LaVecchia as labor consultants, was instructed to have LaVecchia sign a document acknowledging his agreement not to talk to any employees of U. S. Home or its subcontractors without the company's written consent. The obvious intent of this agreement was to establish a distinction between persuasion and advice and thus frustrate the Act's purpose of publicizing the activities of labor consultants in connection with the U. S. Home's labor-management relations. The Commission observed the same device in Harry Saltzstein's and Lab-Rel's contracts with Boise-Cascade Corp. The concluding paragraph on each of these contracts contained a statement that none of the activities to be performed would entail conduct which would necessitate reporting under the Act.

In order to close this loophole in the statute, the Commission urges that New Jersey's federal legislators sponsor and support necessary amendments to the Labor-Management Reporting and Disclosure Act, including the following proposals of the House Subcommittee:

We encourage the Department of Labor to undertake a thorough re-examination of the employer and consultant reporting and disclosure provisions of LMRDA. The growth of the consultant industry is itself sufficient justification for the Department of Labor to evaluate the current interpretation of the Act. Virtually every union is required to and does report its activities under the provisions of the Act. It is inequitable that the Department does not require consultants, even in instances when they are clearly running management's anti-union campaign, to disclose their involvement. The Department's current review should encompass interpretative issues in addition to the advice-persuasion distinction. The review must come to terms with the failures of the existing interpretations of the law to realize the Act's purpose of assuring fair and open disclosure of the activities of all people involved in the organizing and the collective bargaining process.

#### RECOMMENDATION #2 (STATE REFORMS)

The Legislature of the State of New Jersey should enact a statute imposing fiduciary duties and responsibilities on labor union representatives, supplemented by a designation of violations as a criminal act, such violations to include any *inducement* to violate such fiduciary duties and responsibilities. Such a statute should contain a broadening of the federal definition of a registered "labor consultant" and specifically include such consultants within the proscription of inducements to violate a labor union representative's fiduciary obligations.

#### *Comment*

Under such a statute, the Commission would require all labor consultants, whether they be persuaders or advisors, to register with the State in order that employers may know who is a registered consultant and who is not. Consistent with the Casino Gambling Control Act and the more recently enacted legislation governing the distribution and sale of cigarettes, registration as a consultant should be denied to anyone who fits the definition of a career criminal offender. Thus business and labor leaders, by checking with a state licensing authority, would be assured of at least a minimum level of integrity for any given consultant. As one California-based labor consultant wrote the Commission: "Government regulations should be imposed on labor relations consultants so those of us who are endeavoring to do a credible piece of work representing employers can be distinguished from the labor relations consultant (who) appears overnight and stays just long enough to give our profession a poor reputation."

Legislation suggested by the S.C.I. could be patterned after New York State's Labor-Management Improper Practices Act (20A McKinney's Laws § 720 et seq.). This statute establishes a policy that representatives of a union are bound by a fiduciary obligation to their members in handling union assets. The New York statute also provides that a breach of fiduciary duty, including the inducement of that breach, is a criminal act. The New York statute specifically forbids a labor relations consultant from inducing breaches of a fiduciary obligation and defines a labor relations consultant as one who, for compensation, *advises or represents* an employer or union with regard to employee organizing, concerted activities or collective bargaining activities. The statute requires such consultants to maintain books and records of account for five years and in conformity with generally accepted accounting

practices. This statute could be strengthened in its New Jersey application by requiring not only the licensure of labor relations consultants but also by mandating that financial reports detailing the source, distribution and amount of all income be submitted annually.

Upon the enactment of such remedial legislation, builders and other businessmen in the State would have ready access to pertinent information on labor consultants and would be able to make reasoned business-like decisions as to their retention. In essence, there would no longer be any excuse for disregarding a consultant's background. Strictly enforced licensing requirements would preclude career criminal offenders from the field and give the business and labor community a sense of confidence in the licensees, a prospect that also would benefit legitimate labor relations consultants.

## ORGANIZED CRIME/1981 UPDATE

### *Introduction*

While winding up its investigation into the background of organized crime involvement in labor relations at housing construction sites, the Commission continued its surveillance of currently active underworld members and associates. In the meantime, certain New Jersey mobsters who had been or were currently involved in the Commission's confrontation program met with reverses in federal and state courts during 1981, as noted below.

### *Nicodemo (Little Nicky) Scarfo*

Scarfo of Atlantic City, one of the original subjects of the S.C.I.'s program of confronting organized crime members, was found guilty of illegal possession of a handgun in April in Federal Court, Camden, and in July was sentenced to a maximum two years in Federal Prison and fined \$5,000. During a pre-sentence hearing, Scarfo was publicly identified by the FBI as head of the Philadelphia-South Jersey organized crime family that was controlled by Angelo Bruno until he was murdered in March, 1980. Scarfo is free on \$50,000 bail pending appeal. He and two associates had been acquitted in 1980 of charges of murdering a Margate cement contractor.

An S.C.I. special agent, Dennis McGuigan was credited with decyphering a coded telephone list found in Scarfo's house in 1979,

during the investigation that led to Scarfo's murder trial. McGuigan was an investigator for the Atlantic County Prosecutor at the time that coded list was found. It was not until last April, after McGuigan joined the S.C.I. staff, that he finally broke the code and thus identified a number of Scarfo's closest gangland contacts. McGuigan's work was part of a joint effort by a number of law enforcement personnel who cooperated with the Camden office of the U.S. Justice Department's Organized Crime and Racketeering Section in the successful prosecution of Scarfo. This team work, including the S.C.I.'s role in it, was praised by Robert C. Stewart, attorney-in-charge, in a letter to the Commission. Mr. Stewart's letter stated:

*"I have been informed by our attorney who handled the case that the imposed maximum sentence was the result of a joint effort by several law enforcement agencies, whose contributions clearly demonstrated the effectiveness of collective participation. I would like to express our thanks and gratitude for the cooperation and assistance your office provided, particularly mentioning the contributions of Dennis McGuigan and Michael Siavage (former Executive Director). Without their time and effort, the successful prosecution of Nicodemo Scarfo would certainly not have occurred."*

As noted, Scarfo was among the organized crime figures subpoenaed for questioning by the S.C.I. in the early 1970s. He was held in contempt for refusing to answer questions and served 31 months in jail before finally agreeing to testify before the Commission. He made a number of appearances at the S.C.I. after his release from prison in 1973.

### *Carl (Pappy) Ippolito*

Ippolito's prior conviction and \$5,000 fine for refusing to answer questions at the S.C.I. withstood in September an effort by his counsel to have him judged mentally incompetent during the trial. Ippolito, a cousin of the murdered Bruno, did not attend the hearing before Mercer County Judge Richard J. S. Barlow on the senility issue. In rejecting the incompetency plea, Judge Barlow noted that Ippolito had answered most questions without difficulty during cross examination at the contempt proceedings that

resulted in more than 40 pages of trial transcript. The 1981 hearing finally ended a five-year court battle by Ippolito to avoid answering questions at the S.C.I. about his organized crime activities.

*Tino Fiumara, John DiGilio*

Both Fiumara of Wyckoff and DiGilio of Paramus, who also had been subpoenaed to appear for executive session testimony at the S.C.I., suffered setbacks by the United States Supreme Court in October.

That court refused to review waterfront racketeering convictions of Fiumara, who operated at the Newark and Elizabeth docks, and Michael Clemente of New York and former longshoreman's local president Vincent Colucci of Hillside.

DiGilio, who had been freed after serving six months of a nine-month sentence for his role in the theft of his personal files from the FBI, unsuccessfully sought a new trial from the U.S. Supreme Court. That court refused to hear an appeal based on DiGilio's claim that new evidence warranted a retrial of his case. DiGilio was among a number of underworld figures who fled the state in the early 1970s to avoid an S.C.I. subpoena.

*Raymond (Long John) Martorano*

This longtime ally of the murdered Angelo Bruno was involved in the S.C.I.'s continuing confrontation of organized crime members during 1981. The S.C.I. obtained a bench warrant for his arrest in November after a court hearing in which the Commission demonstrated he was in contempt of a subpoena to appear for questioning. Commission agents executed the S.C.I. warrant at Martorano's Cherry Hill home in December, after which a Superior Court Judge directed Martorano to appear for questioning at the S.C.I. during 1982.

The Commission also continued during 1981 its surveillance of members of the organized crime family of Samuel Rizzo (Sam the Plumber) DeCavalcante, including John Riggi and Louis Larasso of Linden.

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

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

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

\* Excerpt from S.C.I. Law

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

- Introduction/1981 Update
- Legislative Liaison

## THE COMMISSION'S PUBLIC ACTIVITIES

### INTRODUCTION/1981 UPDATE

The Commission's public activities in 1981 included:

- Publication in April of a 360-page Report and Recommendations on the New Jersey Housing Finance Agency (HFA).\* A summary of the Commission's proposed reforms at this agency appears on P. 53 of this report.
- Publication in June of the 370-page Report and Recommendations on Organized Crime Infiltration of Dental Care Plan Organizations.\*
- Conclusion of an inquiry into the history and impact of organized crime on labor relations at specified housing construction sites. A report, with recommendations, is included in this Annual Report, beginning on P. 9.

#### *Recommendations Against Mob Incursion of Dental Care Plans*

The Commission's investigation encompassed numerous dental care plans but ultimately centered on two major operations that most graphically illustrated how questionable profits were being generated by means of intertwining corporate fiscal manipulations, overpriced care programs and facilities and unrecorded and unexplained diversions of cash.

One of these enterprises operated in South Jersey. The Commission's investigators found that, in one year alone, a so-called consulting company generated a cash flow approaching a million dollars from which was diverted more than \$150,000 for purposes that could not be specifically identified in any corporate or individual business accounts or by those who handled or otherwise had access to the money. The S.C.I. probe revealed that this fund was shared with individuals identified as associates or members of organized crime.

\* Copies of the Commission's full reports on its investigations of the HFA and Dental Care Plans are available at the S.C.I. office.



Another larger enterprise, utilizing more than 20 dental clinics in North Jersey, was found to have significant organized crime connections to Buffalo, N.Y., and Cleveland, Ohio. The inflated invoices, inadequately secured "loans," forged checks, kickbacks in the form of rebates, and other dubious financial transactions that marked this second exemplar were so complex that S.C.I. accountants had to construct large, step-by-step charts to clarify them.

During the S.C.I.'s 18-month inquiry more than 200 subpoenas were issued to various corporations, banks and other financial institutions and individual businessmen, dentists, labor union leaders and mob figures requiring the submission of voluminous corporate and personal records for analysis by the Commission's investigative accountants. At least 100 individuals were questioned at executive sessions of the S.C.I. Subsequently more than 30 witnesses were subpoenaed to testify at public hearings held in December, 1980.

The Commission was confronted with numerous attempts to derail its inquiry and the scheduled public expose of its findings. Nonetheless it ultimately succeeded in compiling a full public hearing record upon which to base recommendations for eliminating the abuse of labor union trust funds in the dental services area of the health care industry.

Such recommendations were discussed at length in the S.C.I.'s published report. Therefore, only a summary will be included in this annual report. The recommendations were outlined in two proposals.

Proposal #1 endorsed a then-pending Committee Substitute for Assembly Bill No. 669 which would create a New Jersey state law modeled after the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act. This bill was enacted in June, 1981, as the Commission's report was being processed for public distribution. The legislative findings that prefaced this statute—that organized crime annually drains millions of dollars from this state's economy by use of force, fraud and corruption and that organized crime type activity has infiltrated legitimate businesses—were graphically confirmed by the Commission's investigation and public hearings.

Proposal #2 included more than a dozen recommended amendments to strengthen a law requiring the State Insurance Commissioner to regulate dental plan organizations. This law became

effective in June, 1980, but had not been materially implemented. The changes proposed by the Commission would require more adequate disclosure and closer inspection of financial transactions of dental plan organizations than is presently required by the statute. These amendments would:

- Regulate "consultants" and "finders who are connected in any way with dental plan organizations, including full disclosure of fees and other compensation pledged or paid. The amounts of such compensation would be subject to regulation by the insurance commissioner.

- Require the commissioner to act within 90 days upon receipt of an application by a dental plan organization for a certificate of authority to operate. Applications submitted prior to the implementation of this revision would have to be acted upon within 90 days of the effective date of this revision.

- Require the submission of financial statements prepared and attested to by an independent certified public accountant showing a dental plan organization's assets, liabilities and sources of financial support. Terms and conditions of liabilities also would be required. Requests to applicants for additional data would require compliance within 30 days.

- Require that actual dental plan provider contracts must be submitted to assure that they conform with the "form" of such contracts previously supplied to the commissioner.

The Commission's recommendations were subsequently incorporated into legislation which is expected to be on the agenda of the 1982-83 Legislature.

## STATE LEGISLATIVE LIAISON

### *Dental Care Law Reforms*

The Commission's proposals for prohibiting further organized criminal influence in certain areas of the dental care plan industry were the first to be processed under requirements of the Legislature's 1979 amendments to the statute under which the S.C.I. operates. One new requirement was that the Commission's trans-

mittal of its recommendations to the Governor and the Legislature be made within 60 days after the conclusion of a public hearing on the subject of such recommendations. Although its full report was not yet completed, the Commission complied with this 60-day rule by the timely submission of its recommendations, in February, 1981, for amending a 1980 law designed to regulate the activities of dental care plan organizations. Another new provision in the S.C.I. law required that the Commission notify the prime sponsor of any pending bill and the chairman of any standing committee considering such a bill that would be affected by its recommendations prior to issuing them. Since the Commission's recommendations included a request for favorable action on a proposed state version of the federal Racketeer Influenced and Corrupt Organizations (RICO) law, timely notification of this action also was made by the S.C.I., also in February, to Assemblyman Martin A. Herman of Woodbury as prime sponsor of the State RICO bill and to Senator William V. Musto of Union City as the chairman of the Senate Judiciary Committee, where the RICO bill was then under consideration.

#### FEDERAL LEGISLATIVE LIAISON

In November, S.C.I. Commissioner Robert J. DeITufo testified on the Commission's findings in its dental care inquiry before the Select Committee on Aging of the U.S. House of Representatives. At the conclusion of his and other witnesses' testimony, Rep. Claude Pepper, the committee chairman, observed that the hearings had demonstrated how "employee benefit trust funds are being looted on a scale that few have dared to dream possible." Accompanying Commissioner DeITufo to the Washington hearing were S.C.I. Executive Director James T. O'Halloran and Agents Frank Zanino and Richard S. Hutchinson. The Commission complied with the House Committee's requests for copies of its report and recommendations and other data related to its dental care inquiry.

The Commission during 1981 also responded to requests for investigative data and other assistance from the U.S. Senate's Permanent Subcommittee on Investigation.

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

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

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

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

\* Excerpts from S.C.I. Law

THE GOVERNOR'S REQUESTS

• HFA Report (#1)

## *THE GOVERNOR'S REQUESTS*

### **HFA INVESTIGATION AND REPORT**

One of the requirements of the Commission's enabling statute is that the S.C.I., at the direction of the Governor, conduct investigations with respect to the "management or affairs" of any governmental department or other agency of government. In April, 1981, the Commission issued a report requested by then-Governor Brendan T. Byrne on problems in the operation of New Jersey's Housing Finance Agency.

The Commission's HFA investigation disclosed that certain aggressive, politically connected housing entrepreneurs were able to have their projects aided through a combination of loose agency procedures, an authoritarian executive director in the person of William L. Johnston and, for the most part, a malleable staff. The susceptibility of the agency to influence peddling became rampant during Johnston's leadership from the mid-1970s to the Spring of 1979.

The S.C.I.'s report reviewed the cause and effect of Johnston's misconduct and of the reaction of certain agency personnel to his activities. Even as the Commission's inquiry progressed, the agency under the more effective direction of Bruce G. Coe, who succeeded Johnston as Executive Director in 1979, began to improve its regulatory policies and procedures. (Coe resigned from his post effective January 1, 1982). As stated in its report, the new regime's efforts "represented at least the beginning of a transformation of what had been a myth of internal stability at the agency into an actuality." The Commission added that it hoped its recommendations would "significantly expand that progress through the implementation of many additional reforms."

The S.C.I. report received wide distribution in the executive and legislative branches of government and among the general public. Since that document outlined the Commission's recommendations in full detail, only a summary will be made here.

### *Proposed Reforms at New Jersey HFA*

The recommendations responded to two important findings: (1) The excesses of power exerted by a despotic executive director who was receptive to corrupting pressures, and (2) submissive reactions of a staff that perpetuated the director's power by becoming a subservient vehicle for misconduct. To correct these problems, the Commission proposed a number of administrative checks and balances to ensure that a fully objective system, once in place, would be safeguarded by constant monitoring. In addition, the Commission recommended new and expanded internal standards in order to upgrade the credibility and integrity of the staff.

Most of the recommendations were designed to proscribe favoritism and influence peddling in connection with the processing of HFA project applications. The S.C.I. credited the new agency administration with developing a long overdue point system for the evaluation of pending projects. However, the Commission suggested that certain of the new "Criteria for Project Selection" could be strengthened to increase the effectiveness of this program. Other proposed reforms:

- Amendment of the HFA enabling law was urged to require a periodic inspection and review of the agency's operations by a Legislative Oversight Committee augmented by the inclusion of certain legal and accounting representatives designated by the Governor. This recommendation followed a trend in recent years toward more concentrated legislative watchdogging of programs enacted and funded by the Legislature. Had this oversight provision been in effect at the HFA in the 1970s, the Commission noted, the scandals that ensued would have been more quickly exposed.

- Because most of the wrongdoing cited by the S.C.I. was attributed to the inadequacies of a former executive director, Johnston, the S.C.I. recommended that the agency's board formulate and implement more objective and thorough policy guidelines for the hiring of its chief operating officer and other key management personnel. The Commission urged that such employment criteria specifically prohibit political intervention and be based on the hiring standards "by

which most successful corporations seek out their most capable and effective executive managers."

- The Commission's report observed that internal audits of HFA operations were inadequate and called, in particular, for "spot audits" that would include "the identification of fraud" as a primary objective.

- The Commission urged increased participation of the agency's board members in monitoring HFA operations, including assignment of board members to committees that would evaluate project processing and controversies. The S.C.I. also requested that the agency board's membership be expanded to include additional public members with specialized experience in public housing finances, construction and law. (Legislative bill A-1659, by Assemblyman Alan Karcher of Middlesex, the president Assembly Speaker, addressed this problem and was endorsed by the Commission. It was signed into law in March, 1981).

- Although a code of ethics was finally adopted by the HFA board in September, 1980, the Commission cited a number of inadequacies in this document that related to areas of wrongdoing revealed in the S.C.I. report. The Commission recommended an absolute prohibition against any agency employee becoming affiliated with any entity doing business with the HFA for a period of two years after the HFA employee's departure from the agency. The Commission recommended additionally an absolute proscription against acceptance of any gift, gratuity or service by an employee.

- The recommendations included a prohibition against any political hiring, primarily through the adoption of objective employment standards similar to those urged for recruitment of the agency's key executive managers.

- One defect in the agency's code of ethics was the failure to provide a vehicle for reporting the possibility of corruption at the HFA's executive management level. The S.C.I. recommended that a report of

alleged or actual internal corruption be required to be made to the Attorney General's representative at the agency with a promise of confidentiality during the investigative process. The Commission recalled in its report that at least one HFA employee was fired when he challenged questionable conduct by a superior.

• Since the S.C.I. reported several instances of attempts to deceive the agency's governing board, the recommendations included a requirement that all present and prospective employees be notified that "any willful misstatement or omission of material fact in any report, memoranda, letter or other official internal or external correspondence of the agency shall be cause for immediate dismissal."

The Commission has announced that a second and final report on its investigation of the HFA would be forthcoming during 1982.

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

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

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

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

\* Excerpts from S.C.I. Law

**LAW ENFORCEMENT LIAISON**

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

## **LAW ENFORCEMENT LIAISON**

### **INTRODUCTION**

The Commission last year was contacted by telephone or mail 84 times for various types of assistance from county, state and federal law enforcement agencies in New Jersey and from such agencies in the states of Florida, Maryland, New York, Washington, D.C., and Texas. These contacts generated hundreds of requests for specific assistance, according to data recorded by Commission staff. All requests were expedited. Additionally, the Commission passed 30 resolutions in response to formal requests for confidential Commission information from various New Jersey law enforcement and regulatory agencies, from Federal law enforcement agencies and legislative committees, and from law enforcement officials of other states. Several referrals of possible evidence of criminality were also made pursuant to N.J.S.A. 52:9M-8, of the S.C.I. law.

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

During 1981 the Commission continued its liaison with the Office of the Attorney General and various components of the Department of Law and Public Safety. This liaison was carried out through high-level meetings by the Commissioners with the Attorney General. Additionally, Commission supervisory personnel and the staff of the Attorney General's office, particularly the Division of Criminal Justice, met on scores of occasions during the course of the year with regard to day-to-day activities.

One of the primary purposes of this close liaison is the maintenance of a dialogue with the chief prosecutorial office in the state so that the Commission can address more effectively broad-based problems in the area of criminal justice reform. The Commission staff and the staff of the Attorney General's office also often share in the development and support of appropriate legislation resulting from the Commission's public hearings and reports. Of particular note in this area was the enactment during 1981 of legislation resulting from the Commission's absentee ballot law inquiry and hearings.

From its outset, the Commission's probe of absentee voting law abuses was a cooperative effort that included both state and county prosecutorial officials. Criminal Justice Director Edwin H. Stier pointed out at the time that the Absentee Voting Law's contradictions, restrictions and ambiguities had defied even the most vigorous attempts to enforce the statute. Therefore, he stated, the Attorney General decided that "the most important vehicle for translating the information which we had found into action toward reform would be . . . the S.C.I." A productive sharing of investigatory files and tasks marked the entire probe. Public hearings confirmed how local politicians coerced voters to advance their own personal and partisan ambitions, how absentee ballots were distributed, collected and cast illegally, and how forgery was employed to sign and alter ballots.

The Commission's recommendations led to the introduction of a number of bills to implement them. A committee substitute for Assembly Bill No. 669 that incorporated the proposed absentee ballot reforms was approved by both legislative houses during 1981 and signed into law as the 1980-81 legislative session concluded its work.

#### LIAISON WITH COUNTY PROSECUTORS

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

#### REFERENCE OF EVIDENCE

As noted, the Commission made a number of references of potential criminal matters to various federal and state law enforcement agencies. Most of these actions cannot be identified because of continuing reviews and investigations. However, one such reference of evidence—from the Commission's probe of organized crime incursion of dental plans—was made public in December, 1981, when U.S. Attorney W. Hunt Dumont announced the Federal Grand Jury indictment of two witnesses in the S.C.I. investigation and public hearing. The indictments charged that Stanley Resnick

of Morristown and John Burke of Cranford had conspired to transport stolen money in interstate commerce and to make false credit applications. In his announcement, U.S. Attorney Hunt stated in part that "the indictment resulted from evidence developed by the New Jersey State Commission of Investigation." The Commission subsequently received a letter from Robert C. Stewart, the Attorney-in-Charge of the Newark field office of U.S. Attorney Hunt's Organized Crime and Racketeering Section, which stated in connection with the Resnick-Burke indictment:

*"This indictment resulted from evidence developed by the S.C.I. during its probe of pre-paid dental plans operating in the State of New Jersey. I would like to take this opportunity to express our appreciation for the fine investigative work done by the S.C.I. in this matter and for the cooperation of Commission staff members in providing essential assistance to this office, without which the indictment could not have been returned. I would especially like to commend Jules Cayson, Richard Hutchinson, Joseph Corrigan and Chris Klagholz for their invaluable contribution to this joint effort."*

Mr. Cayson is the Commission's chief accountant, Mrs. Klagholz is an investigative accountant and Messrs. Hutchinson and Corrigan are S.C.I. special agents.

#### INTERSTATE COOPERATION

The Commission continued its membership in various interstate organizations of a formal and informal nature which relate to its work. Additionally, the Commission received numerous requests for assistance on investigations from various law enforcement agencies throughout the nation. The Commission, in fulfillment of its statutory duty and its recognition of the importance of cooperation among the states in areas such as organized crime, responded to every such request. The Commission itself also obtained assistance from various other states on matters of mutual concern with particular relevance to organized crime and racketeering.

## NATIONAL ORGANIZATION OF INVESTIGATORY COMMISSIONS

The S.C.I. continued its membership and activities in the National Organization of Investigatory Commissions (NOIC) during 1981. NOIC was created in Princeton in 1978 when the New Jersey S.C.I. met with five other similar state commissions to ratify the concept of a national group. This national organization has as its primary purpose the interchange of information concerning common problems and the maintenance of a dialogue on policy and legal matters relevant to each of the members' agencies.

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

During 1981 NOIC continued its project of communicating with the various other states in the country about the possible creation of such an investigative body in those jurisdictions. Several state legislatures are considering statutory measures which would create investigatory commissions. Other states have asked for information from NOIC concerning the overall concept. NOIC is continuing to correspond with these states in order to promote the concept of independent, bipartisan State investigating agencies throughout the country.

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

\* Excerpt from S.C.I. Law

COMMISSION STAFF

• Performance,  
Self-improvement



## COMMISSION STAFF

### STAFF PERFORMANCE

In October, 1981, James T. O'Halloran of Bayonne, former Prosecutor of Hudson County, was sworn into office as Executive Director of the S.C.I., succeeding Michael R. Siavage of Lakewood. Mr. O'Halloran, who is 54, is a graduate of Seton Hall University and of Seton Hall Law School. He was admitted to the New Jersey Bar in 1965 and became counsel to the Bayonne City Housing Authority in 1968. He conducted a private practice in Bayonne until 1974 when he was appointed Hudson County Prosecutor. He was the Hudson Prosecutor for almost seven years.

Mr. O'Halloran came to the S.C.I. in June, 1981, as Deputy Director in preparation for assuming the executive director's post. In a recent address to a Tax Institute seminar at Fairleigh Dickinson University, he recalled that after joining the Commission, "all of my most pleasant anticipations about the S.C.I. were quickly confirmed," adding:

*"I found, as I had expected, a staff that was industrious and competent. I assumed control of investigations that were progressing in a professional manner. I received voluntary staff suggestions for new inquiries that merited favorable attention. In general, I found that my own prior knowledge of the S.C.I.'s reputation for integrity and diligence had been soundly based."*

The Commission's staff during 1981 consisted of 42 individuals, including 6 lawyers, 6 accountants and 14 special agents. As in previous years, the staff continued to expand its professional caliber by attending various law enforcement seminars and conferences and accredited educational courses related to their work.

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

as assistant prosecutors and another was an assistant district attorney in New York and counsel to the New York City Police Department.

The Commission's accountants not only kept abreast of advances in their field but also shared their knowledge and experience with other law enforcement agencies, particularly in the area of white collar crime and as lecturers at the New Jersey State Police Academy. The S.C.I. chief accountant lectured at the State Police training school for investigators assigned to the Attorney General's Gaming Enforcement Division and submitted a paper for use at the new State Police Intelligence Analysts' School at Sea Girt. Two accountants are Certified Public Accountants. One accountant holds a Master of Business Administration post-graduate degree and another is a candidate for such a degree. Two S.C.I. accountants are former veteran investigators for the U.S. Internal Revenue Service.

Special courses and seminars on white collar crime, government corruption, organized crime and other law enforcement problems were attended by the Commission's special agents. The Commission during 1981 received a letter from the U.S. Justice Department's Organized Crime and Racketeering Section, Camden office, expressing appreciation for S.C.I. staff "cooperation and assistance"—particularly that of one of the Commission's special agents—in a major organized crime judicial proceeding. In addition, another of the Commission's special agents assisted the U.S. Attorney's office in Newark in obtaining an embezzlement indictment to which the defendant pled guilty. The wide-ranging background of the Commission's special agents has been particularly helpful in the successful completion of the agency's unusually varied investigations. Collectively, this background includes previous careers or tours of duty with the U.S. Justice Department, the U.S. Senate's organized crime investigations, the Federal Bureau of Investigation, the State Police, various county prosecutor's offices, the Pennsylvania Crime Commission, many municipal police departments, the NY-NJ Waterfront Commission, a county sheriff's department, and the Military Police. One or another of the special agents periodically presides at regularly scheduled meetings of delegates from approximately 40 federal, state, county and municipal law enforcement agencies from a five-state area. These meetings are designed to develop closer investigative liaison and to review law enforcement matters of mutual concern.

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

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

\* Excerpts from S.C.I. Law

#### LIAISON WITH THE PUBLIC

- Public Reports
- Citizen Assistance

## *LIAISON WITH THE PUBLIC*

### **PUBLIC REPORTS**

Since its inception the Commission has held a total of 22 public hearings on various law enforcement problems. These hearings were conducted in accordance with the Commission's statutory mandate to publicly demonstrate wrongdoing uncovered by fact-finding investigations. The hearings resulted in the submission to the Governor, the Legislature and the general public of 25 reports summarizing investigative findings, reviewing hearing testimony and recommending legislative and regulatory reforms. Many of these recommendations were implemented, as detailed in a summary of major investigations in the Appendices Section of this annual report. In addition, the Commission since 1969 also issued 15 public reports on investigations which did not warrant a public hearing procedure.

A brief listing of these 62 public actions by the S.C.I. during the past decade illustrates the wide-ranging variety of allegations and complaints that, by formal authorization of the Commission, were subjected to its traditional process of probes, hearings and public reports. In the organized crime field, the Commission's continuing confrontation of high-ranking mob figures was highlighted by public hearings and reports on organized crime influence in Long Branch and Monmouth County (1970), organized crime activities in Ocean County (1972), narcotics trafficking (1973), infiltration of legitimate businesses in Atlantic City (1977), organized crime incursions in the dental health care industry (1980) and into labor relations profiteering at mass housing projects (1981). In addition, investigations in other law enforcement areas that were subjected to both public hearings and reports included: State cleaning services' abuses and state building service contractual irregularities (1970), Hudson County Mosquito Commission corruption (1970), Jersey City waterfront land frauds (1971), workers compensation misconduct (1973), misuse of surplus federal property (1973), pseudo-charity solicitations (1974), Lindenwold borough corruption (1974), medicaid-clinical labs (1975), Middlesex land deals (1976), prison furlough abuses (1976), medicaid nursing home schemes (1976-7), improper conduct by private schools for

handicapped children (1978), absentee ballot law transgressions (1978), and mishandling of public insurance programs (1979). Further, although no public hearings ensued, critical public reports and corrective recommendations followed the Commission's investigations of the garbage industry (1970), an Atlantic County embezzlement (1971), Stockton College land deals (1972), the Attorney General's office (1973), Middlesex bank fraud (1973), conflicts of interest on the Delaware River Port Authority (1974), medicaid nursing home cost reimbursements (1975), medicaid "mills" (1976), casino control law problems (1977), medicaid hospital problems (1977) and wrongful tax deductions from public employees' injury leave wages (1979).

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

#### **CITIZENS ASSISTANCE**

As in past years, hardly a week passed in 1981 that the Commission did not receive requests for investigative action, assistance or advice from citizens of New Jersey. Commission records indicate more than 120 such citizen contacts, mostly for the purpose of filing complaints about law enforcement and other problems affecting them or their communities. The Commission staff's discussions and reviews of citizen complaints alone required an average of more than 45 minutes per contact.

#### **APPENDICES SECTION**

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

## APPENDIX I

### RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS

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

#### 1. ORGANIZED CRIME CONFRONTATIONS\*

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

\* See New Jersey State Commission of Investigation, Annual Reports since 1969.  
See also Pp. 9-48 of this Annual Report.

and approach have been approved by the highest state and federal courts.

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

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

New Jersey's former Attorney General Hyland, who was the agency's first chairman, has observed: ". . . much has already been done to eliminate — or at least to weaken — organized crime. Much of the credit for that success belongs to the S.C.I. for its efforts in seeking testimony from alleged organized crime figures and for focusing the spotlight on, and thus alerting the public to, the problems associated with organized crime."

## 2. THE GARBAGE INDUSTRY\*

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

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

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

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

The seashore city of Long Branch was in the late 1960s the target of charges and disclosures about the influence of organized crime. One charge was that an organized crime figure, Anthony (Little Pussy) Russo, controlled the mayor and the city council. Official reports indicated mob figures were operating in an atmosphere relatively secure from law enforcement. The Commission began an investigation in May, 1969, that culminated with public hearings in early 1970. Among the disclosures were:

That a Long Branch city manager was ousted from his job by the city council after he began taking counter-action against organized crime's influence; that Russo offered to get the city manager's job back for that same person if he would close his eyes

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

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

to underworld influences and act as a front for the mob; that impending police raids on gambling establishments were being leaked in time to prevent arrests despite the anti-gambling efforts of an honest police chief who died in 1968, and that the next police chief lacked the integrity and desire to investigate organized crime and stem its influence.

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

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

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

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

*The Commission after the hearing made a series of recommendations to reform the county prosecutor system. A principal recommendation was for full-time prosecutors and assistants. A state law, since enacted, has established full-time prosecutorial staffs in the more populous counties of New Jersey and additional statutes are requiring full-time prosecutors in certain other counties. Prior to the Commission's probe, there were no full-time county prosecutors in the state.*

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

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

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

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

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

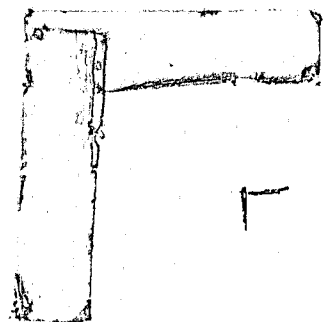
The probe of the Division of Purchase and Property brought to the Commission's attention anti-competitive and other improper practices and influences in the building services industry. Public hearings were held in June, 1970.

Testimony showed the existence of a trade organization designed to thwart competition by limiting free bidding and enterprise. The hearings also revealed that a union official linked with organized crime figures was the real power in the trade organization, and that coerced sales of certain detergent cleaning products and imposition of sweetheart contracts were sometimes the price of labor peace. The inquiry also revealed that a major organized crime figure in New Jersey acted as an arbiter of disputes between some cleaning companies.

*The Commission's investigation of restraint-of-trade and other abusive practices in the building service and maintenance industry aroused the interest of the United States Senate Commerce Com-*

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

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



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

#### 6. THE HUDSON COUNTY MOSQUITO COMMISSION\*

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

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

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

*Also, after receiving S.C.I. records of the investigation, the Hudson County Prosecutor's Office obtained conspiracy and*

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

*embezzlement indictments against the Mosquito Commission's executive director and his two sons. The executive director pleaded guilty to embezzlement and in June, 1972, was sentenced to two to four years in prison. His sons pleaded guilty to conspiracy and were fined \$1,000 each.*

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

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

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

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

The lands that lie along the Jersey City waterfront are among the most valuable and economically important in the state. The Commission in the Spring of 1971 investigated allegations of cor-

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

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

ruption and other irregularities in the development of the Point Breeze area of Jersey City's waterfront as a containership port and an industrial park.

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

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

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

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

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

Gross's testimony during two days of public hearings by the Commission in February, 1972, pinpointed the ruthless operations of organized crime figures in the Ocean County area and their ties back to underworld bosses in Northern New Jersey and New York City. His testimony and that of other witnesses detailed how mobsters infiltrated a legitimate motel business in Lakewood. A former restaurant concessionaire at that motel testified that because of shylock loans arranged through an organized crime association, he lost assets of about \$60,000 in six months.

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

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

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

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

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

The report stressed a number of recommendations to insure that the Division would in the future detect and correct faults in appraisals. Key recommendations were post-appraisal reviews by qualified experts and strict pre-qualification of appraisers before being listed as eligible to work for the state. The recommendations were promptly implemented by the Division.

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

## 11. BANK FRAUD IN MIDDLESEX COUNTY\*

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

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

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

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

In the summer of 1972 the Commission was requested by the then Attorney General of New Jersey, George F. Kugler, Jr., to investigate his office's handling of the case of Paul J. Sherwin, the Secretary of State who was convicted on a conspiracy indictment in connection with a campaign contribution made by a contractor who had bid on a state highway contract. The request triggered an investigation which extended into early 1973. The Commission took from 22 witnesses sworn testimony consisting

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

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

of more than 1,300 pages of transcripts and also introduced exhibits consisting of more than 300 pages. The Commission, by unanimous resolution, issued in 1973 a 1,600-page report which was forwarded to the Governor and the Legislature and to all news media. John J. Francis, the retired Associate Justice of the New Jersey Supreme Court, served without compensation as Special Counsel to the Commission in the investigation.

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

## 13. THE WORKERS' COMPENSATION SYSTEM\*

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

*As a result of the investigation, three Judges of Compensation were given disciplinary suspensions, with one of them eventually being dismissed from office by the Governor. After referral of data in this probe to prosecutorial authorities, an Essex County Grand Jury during 1975 indicted two partners of a law firm and the firm's business manager on charges of conspiracy and obtain-*

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

ing money under false pretenses in connection with the alleged heat-treatment, bill-padding scheme exposed at the S.C.I.'s public hearings. Also, the Waterfront Commission of New York Harbor used the investigative techniques and methodology established by the S.C.I. in this investigation to uncover widespread Workmen's Compensation frauds involving dock workers.

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

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

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

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

Further, after referral of data from this probe to the State Criminal Justice Division, a State Grand Jury indicted Alex Smollock, the school's manager and purchasing agent, on charges of taking nearly \$40,000 in kickbacks. He was convicted of nine counts of accepting bribes and was sentenced to one to three years in state prison and fined \$9,000. Superior Court Appellate Division early in 1977 upheld Smollock's conviction. Later, in March, 1977,

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

in a civil suit by Passaic County freeholders and the Technical-Vocational High School, Smollock was ordered by Superior Court to return salary he received during suspension from school duties as well as the bribe money. In February, 1978, he agreed under a Superior Court settlement to repay the county more than \$50,000 in 60 installments during a five-year period upon completion of his prison term.

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

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

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

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

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

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

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

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

*A number of bills to implement S.C.I. recommendations in the charitable fund-raising field were introduced in the Legislature. In April, 1977, Governor Brendan T. Byrne signed into law a bill to require authorization by the Attorney General before corpora-*

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

*tions can identify themselves as fund raisers for the "handicapped" or the "blind." Another bill, to require professional fund raisers to provide financial reports to the Attorney General, also cleared the Legislature and was signed into law by the Governor on December 15, 1977.*

## 17. THE DELAWARE RIVER PORT AUTHORITY\*

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

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

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

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

## 18. THE GOVERNMENT OF LINDENWOLD\*

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

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

*The principal S.C.I. recommendation stemming from this hearing was for enactment of a tough conflict of interest law to apply uniformly on a statewide basis to all county and municipal officials. Legislation meeting the S.C.I.'s standards is pending in the Legislature.*

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

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

## 19. LAND ACQUISITION BY MIDDLESEX COUNTY\*

The Commission received a series of citizens' complaints during the Spring of 1975 about alleged overpayment by the Middlesex County government for purchase of certain lands for park purposes under the State's Green Acres program. A preliminary inquiry by the Commission indicated that overpayments had occurred and that faulty real estate appraisals and insufficient review of those appraisals by the County's Land Acquisition Department and by the State's Green Acres unit were at the root of the problem. Accordingly, the Commission authorized a full-scale investigation of the County's land acquisition procedures and related Green Acres' program practices. Public hearings were held in Trenton in January, 1976.

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

*The Middlesex Grand Jury investigated the conduct of the Middlesex County Land Acquisition Department and its former Administrator as a result of allegations raised during public hearings by the S.C.I. On September 27, 1976, the Grand Jury returned a presentment in which it said that while it found "no provable affirmative criminal act" by the Administrator, "it does feel that his actions in that capacity indicated an insufficient expertise and lack of concern to perform his office in the best interests of the citizens of Middlesex County." The Grand Jury also noted that he solicited and collected political contributions from the same people with whom he dealt as departmental administrator.*

*The Grand Jury's presentment noted that "since the public hearings of the State Commission of Investigation in January, 1976*

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

the Freeholders of Middlesex County have already taken substantial corrective actions." However, it urged in addition that the office of Land Acquisition Administrator be "completely disassociated" from solicitation and collection of political contributions and also that "all of the county officials who control the award of contracts be forbidden from soliciting contributions from individuals over whom they have the power to award contracts." In August, 1981, the Middlesex freeholder board authorized the filing of a suit against 31 companies and individuals to recoup \$1.6 million in overpayments for parklands that had been revealed by the S.C.I. probe.

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

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

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

- Falsification of furlough and other types of applications to gain premature entry into the release programs.
- Establishment of favored status for some inmates and a resulting system of bartering for favors, including monetary exchanges among inmates.
- The ease with which work, educational and other releases could be ripped off because of insufficient supervision in hands of the inmates themselves.
- The intrusion of a barter-for-favors system for the transfer of inmates from one to another of the various penal institutions.

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

As the Commission stated publicly, its probe and hearings were aided substantially by Ann Klein, the former Commissioner of Institutions and Agencies who became Commissioner of Human Services, and by Robert J. Mulcahy, 3d, the former Deputy Commissioner of Institutions who, as the first Commissioner of a new State Department of Corrections, initiated major reforms of prison furlough procedures. These changes included elimination of inmate supervision of the furlough program and the provision of funds for non-inmate control of it, as the Commission had recommended.

In addition to these reforms, a series of indictments and arrests resulted after the Commission referred its facts and public hearings transcripts to the Attorney General and other appropriate prosecuting authorities.

The Attorney General announced in January, 1977, the indictment by the State Grand Jury of five former inmates of Leesburg State Prison on charges of escape in connection with alleged fraudulent obtaining of furloughs from the prison.

The State Grand Jury also indicted a since-dismissed clerk of Trenton State Prison for false swearing and perjury as a result of her testimony on prison furlough abuses during the Commission's private and public hearings. A glaring abuse involving the ex-clerk was the utilization of a bogus court opinion to obtain a substantial reduction in the prison sentence—and therefore the premature release—of one inmate, Patrick Pizuto, known to law enforcement authorities as an underling of the late Anthony (Little Pussy) Russo, a seashore mob figure. This disclosure at the S.C.I.'s hearing led to the immediate reincarceration of Pizuto, who was subsequently indicted for murder and on federal bank fraud charges. On December 8, 1977, Superior Court Appellate Division dismissed as moot Pizuto's appeal from his reincarceration. Pizuto subsequently became an informant for law enforcement authorities investigating underworld crimes and is in the federal witness protection program.

## 21. THE NEW JERSEY MEDICAID PROGRAM\*

In December of 1974 Governor Brendan T. Byrne requested the State Commission of Investigation to conduct an evaluation of New Jersey's system of Medicaid reimbursement.

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

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

During the course of its probe, the Commission reported to the Governor on an update basis from time to time—an operational pattern based on the premise, later substantiated, that the social and financial cost of apparent widespread exploitation of the huge health care delivery system would warrant urgent interim statutory and regulatory correction. A chronological charting of the entire investigation shows the Commission took the following public steps:

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

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

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

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

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

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

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

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

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

*The inflated fee schedule — which facilitated the making of financial inducement type payments from some laboratories to their physician customers — was reduced 40 per cent. Language in the program laboratory manual was tightened to clearly pro-*

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

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

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



scribe the practice by which small laboratories subcontracted particular tests to large reference facilities and then, in many instances, marked-up the cost by more than 300 per cent and reaped windfall profits at the taxpayer's expense. The manual now explicitly prohibits the breakdown of automated component-part tests into separate procedures and the submission of bills to Medicaid for each to the end that a lab might receive between \$60 and \$80 for a profile which costs less than \$3.50 to perform. A computer system for analyzing and screening group tests was developed. The Division took steps to insure that laboratories fully identify the procedures performed and for which payment is requested. In this regard, a requirement was imposed upon Prudential (the fiscal intermediary) that all claims be itemized in detail. Aggregate billing — which was effectively used by some labs to mask improper requests for reimbursement — is no longer tolerated. The Division adopted a hard line with respect to the flow of inducement type payments in any form whatever between laboratories and physician customers.

The Division cured a glaring weakness by employing more staff expertise in clinical laboratory processes and procedures.

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

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

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

and the evils of the "medicaid mills," helped to spur corrective efforts. In fact, the clinical laboratory phase was a pioneering probe that revealed for the first time the hard facts about unscrupulous ripoffs of the system. These disclosures resulted in the appearance of Commission officials before the U.S. Senate Committee on Aging and the U.S. House of Representatives Subcommittee on Oversight and Investigation.

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

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

By the Summer of 1977, the Commission's monitoring of organized crime activities linked to the development of the new gaming industry in Atlantic City had uncovered enough evidence of an actual intrusion of legitimate business to warrant public hearings in keeping with the S.C.I.'s statutory mandate to alert and inform the citizenry. The Commission's inquiry had revealed, as was later confirmed publicly, that organized crime—in addition to its historic interest in casinos and allied services—was also, already, penetrating certain other legitimate businesses that had not been a target of legislative restraints and over which regulatory controls, where they existed at all, were inadequate and only casually enforced.

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

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

On January 12, 1978, the Commission made public a report that emphasized a recommendation to more effectively prohibit the acceptance of applicants with organized crime backgrounds for licensure as cigarette vending agents of the state or as owners and operators of ventures under jurisdiction of the Alcoholic Beverage Control laws.

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

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

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

By June, the Commission's staff was pursuing fresh reports of questionable activities if not outright misconduct by some non-public schools. Inquiries in the field were supplemented by in-depth

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

auditing of actual expense budgets and hundreds of bank checks, vouchers, purchase orders, and miscellaneous business records. These inquiries and audits confirmed the misuse of large sums of money that had been earmarked for the education of more than 5,000 children too seriously handicapped to be served by the public schools.

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

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

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

The Commission's investigation of abuses and irregularities in New Jersey's boarding homes focused on an industry consisting of an estimated 1,800 facilities serving upwards of 40,000 people, most of whom are elderly and disabled. These boarding facilities were assigned to one of two categories—licensed or "unlicensed." The former group consisted of about 275 boarding homes under State Department of Health licensure. But the unlicensed category was further divided, the largest subgroup of which was subject to nominal registration and inspection by the State Department of Community Affairs. A smaller bloc came under local jurisdiction. Finally, an unknown number of facilities operated illegally, devoid of any controls whatsoever.

The fact that more than 1,500 boarding homes were commonly referred to as "unlicensed" underscored the negative quality and

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

lax enforcement of whatever standards that did exist for regulating and otherwise monitoring their activities.

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

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

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

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

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

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

*Also during 1980, John J. Fay, the State Ombudsman for the Institutionalized Elderly, filed a class action suit on behalf of 16 recipients of SSI checks seeking "declarative and injunctive relief and damages" from seven licensed boarding home operators for allegedly withholding all or part of the boarders' Federal Energy Allowance checks. The defendants included one operator in Long Branch who had invoked his 5th Amendment privilege against self-incrimination 32 times when he appeared as a subpoenaed witness at the S.C.I.'s public hearings on boarding home abuses. In addition, the S.C.I. provided the House Select Committee on Aging and the Federal General Accounting Office with copies of its report on boarding homes and audits and other data resulting from the Commission's investigations in support of a Congressional inquiry into the nation's boarding homes. During this inquiry, the House Committee subpoenaed the records of a Camden boarding home which had been a target of the S.C.I.'s investigation and public hearings.*

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

The Commission's public hearings in late 1978 on absentee ballot abuses and irregularities climaxed a prolonged series of inquiries by the S.C.I. and other state and county law enforcement agencies, and by the press, in numerous localities of the state. These investigations confirmed a widespread and flagrant disregard of a law that, although enacted with the intention of safeguarding the sanctity of the ballot for eligible voters unable to go to the polls in person, was so ambiguously constructed as to invite fraud at every step of the absentee voting procedure. So inadequate was this law—as probes by Attorney General John J. Degnan's office and by various county prosecutors particularly illustrated—that effective prosecution of obvious violators was practically impossible. The statute's contradictions, restrictions and loopholes

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

defied the most vigorous prosecutorial attempts to indict and convict individuals who coerced voters to advance their own personal and political ambitions, who improperly distributed and collected absentee votes in bargain-basement fashion, and who forged signatures and altered ballots. Because of the persistent statutory impediments, the Attorney General launched with the S.C.I. a cooperative effort to expose these violations to public scrutiny. It was felt that, by utilizing the Commission's traditional fact-finding and public hearing functions, resultant public awareness of and concern about the situation would spur enactment of essential reforms.

*Both during and after the Commission's investigation and public hearings into official abuse and misuse of the Absentee Ballot Law, constant communication was maintained with legislative and executive officials on the problem of statutory reforms. The task of closing election law loopholes to further improprieties was particularly difficult because of the necessity to make required changes that would not infringe on the constitutional privilege of all eligible voters to cast a secret ballot for candidates of their choice. A series of law amendments were drafted after discussions with legislators, with affected law enforcement entities and with the Secretary of State. The Commission believes that the unity of purpose and effort by New Jersey's law enforcement community and the Legislature behind the proposed Absentee Ballot Law reforms was pivotal in the enactment of a bill implementing the Commission's recommendations in 1981.*

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

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

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

year statute of limitations barred recovery for improper deductions.

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

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

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

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

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

*During 1980 proposed revisions of the State Medical Examiners Act, and related statutes, were being developed by Deputy Attorney General William F. Bolan, Jr., chief of the Criminal Justice's Division of Educational and Legislative Services, and State*

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

Medical Examiner Robert Goode. These proposals will be subject to further review by the Governor's office, county prosecutors and medical examiners, and the S.C.I., prior to submission by the Governor of a reform bill to the Legislature.

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

Following a three-day public hearing, the Commission issued a 367-page report on public insurance problems and abuses in 1980. Copies of this report are available at the Commission's office.

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

A three-day public hearing in December, 1980, climaxed an S.C.I. investigation that confirmed the incursion of organized crime elements into dental care plans negotiated by private entrepreneurs with certain labor unions. See Pp. 49-52 of this annual report. Copies of the Commission's full report are available at the Commission's office.

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

The Commission issued its report on its HFA probe in April, 1981. Copies are available at the Commission's office. Also see P. 53 of this annual report.

**APPENDIX II**

**S.C.I. STATUTE**

*New Jersey Statutes Annotated 52:9M-1, Et Seq.*  
L. 1968, C. 266, as amended by L. 1969, C. 67,  
L. 1970, C. 263, L. 1973, C. 238, and L. 1979, C. 254.

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

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

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

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

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

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

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

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

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

a. The faithful execution and effective enforcement of the laws of the State, with particular reference but not limited to organized crime and racketeering;

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

c. Any matter concerning the public peace, public safety and public justice.

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

a. The removal of public officers by the Governor;

b. The making of recommendations by the Governor to any other person or body, with respect to the removal of public officers;

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

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

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

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

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

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

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

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

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

52:9M-8. *Reference of evidence to other officials.* Whenever the Commission or any employee of the Commission obtains any information or evidence of a reasonable possibility of criminal wrongdoing, or it shall appear to the Commission that there is cause for the prosecution for a crime, or for the removal of a public officer for misconduct, the information or evidence of such crime or misconduct shall be called to the attention of the Attorney General as soon as practicable by the Commission, unless the Commission shall, by majority vote, determine that special circumstances exist which require the delay in transmittal of the information or evidence. However, if the Commission or any employee of the Commission obtains any information or evidence indicating a reasonable possibility of an unauthorized disclosure of information or a violation of any provision of this act, such information or evidence shall be immediately brought by the Commission to the attention of the Attorney General.

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

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

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

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

a. To conduct any investigation authorized by this act at any place within the State; and to maintain offices, hold meetings and function at any place within the State as it may deem necessary;

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

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

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

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

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

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

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

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

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

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

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

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

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

*52:9M-15. Disclosure forbidden; statements absolutely privileged.* a. Any person conducting or participating in any examination or investigation who shall disclose or any person who, coming into possession of or knowledge of the substance of any examination or investigation, shall disclose, or any person who shall cause, encourage or induce a person, including any witness or informant, to disclose, other than as authorized or required by law, to any person other than the Commission or an officer having the power to appoint one or more of the Commissioners the name of any witness examined, or any information obtained or given upon such examina-



tion or investigation, except as directed by the Governor or Commission, or any person other than a member or employee of the Commission or any person entitled to assert a legal privilege who, coming into possession of or knowledge of the substance of any pending examination or investigation who fails to advise the Attorney General and the Commission of such possession or knowledge and to deliver to the Attorney General and the Commission any documents or materials containing such information, shall be guilty of a misdemeanor until September 1, 1979 when such person shall be guilty of a crime of the third degree. Any member or employee of the Commission who shall violate this section shall be dismissed from his office or discharged from his employment.

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

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

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

*52:9M-17. Immunity; order; notice; effect of immunity.* a. If, in the course of any investigation or hearing conducted by the Commission pursuant to this act, a person refuses to answer a question

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

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

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

Any person who shall willfully refuse to answer a question or questions or produce evidence after being ordered to do so by the State Commission of Investigation in accordance with the act to

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

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

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

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

*52:9M-19. Joint committee of legislature to review activities.* Commencing in 1982 and every 4 years thereafter, at the first annual session of a 2-year Legislature, within 30 days after the organization of the Legislature, a joint committee shall be established to review the activities of the State Commission of Investigation for the purpose of: (a) determining whether or not P. L. 1968, C. 266 (C. 52:9M-1 et seq.) should be repealed, or modified, and (b) reporting thereon to the Legislature within 6 months unless the time for reporting is otherwise extended by statute. The joint committee shall be composed of seven members, two members to be appointed by the President of the Senate, no more than one of

whom is to be of the same political party, two members to be appointed by the Speaker of the General Assembly, no more than one of whom is to be of the same political party, and three members to be appointed by the Governor, no more than two of whom shall be of the same political party.

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

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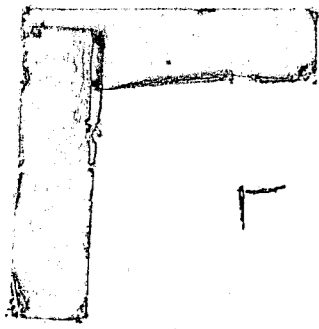
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**END**