FIFTEENTH ANNUAL REPORT

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*

FIFTEENTH ANNUAL REPORT

of the

STATE OF NEW JERSEY

COMMISSION OF INVESTIGATION

to the

GOVERNOR AND LEGISLATURE

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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 1983 its fifteenth annual report and recommendations pursuant to Section 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*
Henry S. Patterson, II
Robert J. Del Tufo
William S. Greenberg

TABLE OF CONTENTS

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 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 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.

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 noted in two comprehensive, impartial analyses of the Commission's record and performance, in 1975 by the Governor's Committee to Evaluate the S.C.I.,** and in 1983 by the State Commission of Investigation Review Committee.*** Both of these reports stated that the S.C.I. performs a valuable function and that there is a continuing need for the Commission's work. The 1983 report said its advocacy of

* 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 this Statute appears in Appendix on P. 47.

** 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.

*** See P. 35.

the Commission is reinforced by the views of top law enforcement officials in the State that the S.C.I. "continues to serve as an important adjunct to New Jersey's criminal justice system."

To eliminate any appearance of political influence in the Commission's operations, 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 subpœna, 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.

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*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 Annal of Congress 493—1792).

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.
>
> 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 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 reappointment as Commissioner. The other Commissioners are Henry S. Patterson II, Robert J. Del Tufo, and William S. Greenberg.

Mr. Lane, of Harbourton, was appointed to the Commission in May, 1977, by the Speaker of the General Assembly. As Chairman, he succeeded Joseph H. Rodriguez of Cherry Hill. He has been a member of the Princeton law firm of Smith, Stratton, Wise and Heher since his retirement in 1976 as a 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 with the rank of Captain, USNR. 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. He is a member and former Chairman of the National Council on Crime and Delinquency.

Mr. Patterson, of Princeton, is president and a director of the Elizabethtown Water Co., and a director of the Mount Holly Water Co. and of United Jersey Banks and three of its subsidiaries. He is a former mayor of Princeton Borough. He was graduated from Princeton University. He served during World War II in the U. S. Army and received his discharge as a first lieutenant in 1946. He was appointed to the Commission in February, 1979 by Governor Byrne.

Mr. Del Tufo, who was United States Attorney for New Jersey from 1977 to 1980, was appointed to the Commission to fill an unexpired term in March, 1981, by Governor Byrne and was reappointed 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. He was First Assistant State Attorney General from 1974 to 1977, during which he served two years as the Director of the Division of Criminal Justice. His previous government service included Assistant Prosecutor (1963-65)

and First Assistant Prosecutor (1965-67) of Morris County. He was graduated from Princeton University in 1955 and from Yale Law School in 1958. He was admitted to the New Jersey Bar in 1959. He is a fellow of the American Bar Foundation, and a professor at the Rutgers University School of Criminal Justice.

Mr. Greenberg, of Princeton, a partner in the Trenton and Princeton law firm of Greenberg, Kelley and Prior, was appointed to the Commission, effective August 1, 1982, by Alan J. Karcher, Speaker of the General Assembly. A graduate of Johns Hopkins University (1964) and Rutgers Law School (1967), he was admitted to the New Jersey Bar in 1967 and the District of Columbia Bar in 1972. He served as Assistant Counsel to former Governor Richard J. Hughes (1969-1970) and as Special Counsel to the New Jersey Chancellor of Higher Education (1968-1969). He is a Certified Civil Trial Attorney and is Vice President of the New Jersey affiliate of the Association of Trial Lawyers of America. He is a Lieutenant Colonel in the New Jersey Army National Guard.

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

• 1983 Update

1983 UPDATE

Court Ruling Favors S.C.I.

The S.C.I.'s surveillance of organized crime members and associates was advanced in 1983 by a unanimous Superior Court Appellate Division decision in the Commission's favor. This opinion upheld a ruling by Superior Court Judge Samuel D. Lenox Jr. that the wives of two reputed organized crime figures must respond to S.C.I. questions about their husband's activities. The appellants were Stephanie LaRasso of Linden, wife of Louis LaRasso, and Ann Vitabile of Edison, wife of Steven Vitabile. LaRasso and Vitabile have themselves been under SCI subpoenaes for a number of years.

The Appellate Division's opinion by Judge Robert A. Matthews noted that the Commission's subpoenaes of Mrs. LaRasso and Mrs. Vitabile indicated the investigation was concerned with the impact of organized crime in New Jersey and particularly the "organized crime family" of Simone Rizzo DeCavalcante and John Riggi "and the apparent change in leadership of said family and the relationship that said family maintains with other known organized crime families from New Jersey and other states." The appellate panel affirmed the lower court's rejection of the appellants' contentions that they cannot be required to testify against their husbands in what they contended was a criminal proceeding and agreed that the Commission's process was not accusatory and "could not be considered a criminal action in view of the Commission's investigative function." Judge Matthews added:

> "While the Commission may uncover evidence which it is obliged to turn over to the Attorney General for possible criminal prosecution, its proceedings can in no way be considered a step in the course of a criminal prosecution . . . Although allowing one spouse to testify against the other before the Commission may affect the marriage relationship, a concern which is the basis for the marital privilege, the courts should not extend the privilege beyond the limits contained

in the language of the (evidence) rule itself . . . Since by its language the rule applies only in a criminal action . . . we conclude that Judge Lenox correctly concluded that proceedings before the commission do not qualify as such an action and therefore the privilege may not be invoked."

The appellants' petition for certification by the New Jersey Supreme Court was denied in May and they subsequently testified before the Commission. James A. Hart of S.C.I. counsel represented the Commission throughout the litigation.

Money "Laundering" Attacked

In the course of its investigation of casino gambling credit abuses in Atlantic City, the Commission was informed that the Federal Internal Revenue Service was considering regulatory action to require that casinos be included among financial institutions that must disclose and report currency transactions of more than $10,000. The Commission's public hearings on casino credit irregularities had confirmed the unwarranted presence of organized crime figures on casino premises as credit players, recipients of free rooms, food and beverage and as bettors of large sums of cash. Testimony at the hearing, as abridged in the Commission's final report, caused the Commission to go on record in support of the Internal Revenue Service effort to uncover and prosecute criminal efforts to launder illegitimate cash at legal casinos. The Commission's Executive Director, James T. O'Halloran, sent a letter to John M. Walker Jr., the U.S. Treasury Department's assistant secretary for enforcement, which stated, in part:

> *"This Commission has recently issued a public report on its investigation of casino credit abuses in Atlantic City. This report includes an abridgement of public hearing testimony indicating that cash in amounts of more than tens of thousands of dollars may have been "laundered" at New Jersey's casinos by gamblers with organized crime backgrounds. As a result, this Commission is seriously concerned about the traffic of both illegal cash and disreputable individuals through casinos and believes strong measures should be imposed to assure that such activities are subjected to full exposure and prosecution.*

"Based on its investigative and public hearing experience, the Commission has authorized me to relay its support for your proposal. When the time comes for a more extensive endorsement of your endeavors, this Commission will be glad to speak out in more detail."

Dental Care Probe Aftermath

Larry Smith of Moorestown, a key witness in the Commission's public hearing on organized crime infiltration of labor union dental plans in 1980, was identified as a continuing mob contact before the Senate Subcommittee on Investigations in Washington last October. The report came from Howard Shapiro, a subcommittee investigator, who said hundreds of thousands of dollars had been siphoned from dental plan funds of two Hotel and Restaurant Employees and Bartenders locals—54 in Atlantic City and 226 in Las Vegas—through Smith's consulting firm. United States Attorney W. Hunt Dumont, who has obtained indictments based in part on the S.C.I.'s dental care investigation findings, also told the subcommittee that wherever racketeers are in control of unions, the union locals' pension, health and other welfare plans are threatened. He estimated that more than 50 labor union locals in New Jersey are captives of organized crime, but emphasized that the problem is nationwide.

Smith is under indictment on federal charges involving an alleged kickback scheme and union severance pay plans. Special Agents Francis A. Betzler and Kurt Schmid of the S.C.I. staff appeared in Federal Court in Camden to give pre-trial testimony and to provide documents in this case.

The Commission's dental care probe led to the enactment of amendments to the New Jersey Dental Plan Organization Act of 1979 to close loopholes that permitted organized crime intrusion of such plans and to more stringently regulate the activities of "consultants" such as Smith. These amendments, proposed by Assemblyman Anthony M. Villane of Monmouth County, were signed into law in January by Governor Thomas H. Kean.

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/1983 Update**
- **State Legislative Liaison**
- **Federal Legislative Liaison**

THE COMMISSION'S PUBLIC ACTIVITIES

INTRODUCTION/1983 UPDATE

The Commission's public activities in 1983 included:

- *Public Hearings—*

Two public hearings were conducted to focus public and official attention on the S.C.I.'s investigative findings and resulting recommendations. One was a four-day session at the State House on March 1-4, inclusive, on gambling casino credit abuses. The other was a three day session on March 28-30, inclusive, on misconduct by Vernon Valley Recreation Association and laxity by the State bureauracy in the operation of a lease of State property in Sussex County.

- *Recommendations—*

Recommendations for reforms of the wrongdoing and other irregularities uncovered by the SCI inquiries were submitted to the Governor and Legislature within 60 days of the Commission's hearings, as required by the S.C.I.'s enabling law.

In connection with casino credit, the Commission formally proposed its recommendations on May 3 in a 28-page statement. These proposals, while reiterating the S.C.I.'s original call for a total ban on credit, included a detailed list of corrective measures "for alternative lawmaking and regulatory action."

As for the Vernon Valley leasehold problems, the Commission referred its recommended reforms on May 26 in a 6-page statement that, among other changes, urged the State to terminate the lease and remove the Vernon Valley entity from the premises.

- *Final Reports—*

The Commission distributed to the Governor and appropriate Executive branch offices and to the Legislature and general public three final reports on its investigations. These reports included lengthy abridgements of public hearing testimony and re-stated the Commission's corrective recommendations. In April, the Commission's 394-page report was issued on its inquiry and hearing

in 1982 on irregularities in the operation of county and municipal sewerage authorities.* In September the Commission distributed a 316-page final report on casino credit and in December it issued a 232-page report on its Vernon Valley inquiry.*

- *Agency Appearance—*

In June, at the request of the Casino Control Commission, the S.C.I.'s Chairman Arthur S. Lane, Executive Director James T. O'Halloran and Counsel Michael V. Coppola testified before that regulatory agency on the S.C.I.'s proposals affecting the internal control and accounting procedures at the casinos.

Recommendations on Casino Credit Abuses

The Commission concluded its hearings on casino credit with the observation that four days of testimony had produced an "extremely harsh indictment" of the entire process. While deploring the damaging impact of this indictment on the integrity of the industry, the S.C.I. also emphasized its human cost. The testimony demonstrated that irresponsible and callous credit decisions and related enticements are luring many patrons—including gambling addicts—into personal degradation and financial self- destruction. The hearing also confirmed that criminal elements, including organized crime members and associates, enjoyed an easy access to the gaming tables, thanks to the fawning disbursement of easy credit and lavish complimentary services. Law enforcement and regulatory witnesses warned that, because of the inadequacies of statutory controls, the credit system is so fertile a field for crime and corruption that a markedly disproportionate share of their staff resources is focused on credit misconduct. These expert witnesses illustrated the built-in restraints against effective law enforcement that have encouraged the perpetration of credit scams based on forgery, theft, perjury and collusion. Overall, the investigative findings and public hearing disclosures confirmed the logic and propriety of a recommendation by the S.C.I. six years ago, when the Casino Control Act was being drafted, that the Legislature prohibit the utilization of credit in casino gaming. In commentary prefacing its recommendations, the S.C.I. said it was pessimistic that even the most stringent of corrections will effectively reform the process. It called for an increased willingness on the

* Copies of the Commission's reports on County and Local Sewerage Authorities, Casino Credit Abuses and the Vernon Valley Leasehold are available at the S.C.I. office in Trenton.

part of the Casino Control Commission to respond more effectively to enforcement problems laid at its doorstep by the Division of Gaming Enforcement and conversely a more vigorous effort by the Division to press for such resolutions, in the state courts if necessary. As Attorney General Kimmelman declared at the public hearing, if an "honest effort" to eliminate the credit abuses fails, "we may have no choice but to ultimately do away with credit altogether." The Commission's recommendations, in summary, included:

- Eliminate Tax Write-Off for Debts

—Eliminate a provision that allows a casino licensee to deduct a percentage of uncollectible gambling debts from gross revenue subject to the State gambling tax.

—Redefine "gross revenue" to eliminate a possibility that this tax base could be reduced by a violation, intentional or otherwise, of a statutory provision governing the credit process.

- Exclude Undesirables

—Require immediate exclusion or ejection by a casino of persons defined by the casino law as being subject to such exclusion or ejection.

—Authorize a casino to detain and question a person to determine if that person should be excluded or ejected.

—Grant immunity from criminal or civil liability to a casino which detains, questions, excludes or ejects a person in a reasonable manner.

—Provide that, if an agent of the Division of Gaming Enforcement or the Casino Control Commission observes a person who might reasonably be subject to ejection from the premises, the casino shall be so advised and shall report back in writing within 24 hours on what action it took.

—Place on the Division of Gaming Enforcement the burden of proof at any hearing that an exclusion or ejection of a person was lawful.

—Revise regulations governing exclusion and ejection to require immediate placement on the exclusion list of a person deemed to be subject to such action pending a hearing.

—Require a casino to exclude or eject a person believed to meet the statutory exclusion or ejection criteria even if such a person is not on the exclusion list, and require further that the casino file with the State the identification of the person ejected together with reasons for such action.

- Make Chip Cashers Pay Markers

—Require that, before a patron leaves a gaming table with $200 or more in chips and has unpaid counter checks of $200 or more, the casino must in the pit area collect and apply the proceeds from those chips against the unpaid markers. An exemption from this requirement would be permitted only if granted in writing by a specified officer of the casino on the basis of a written request by the patron. The forms for applying for an exemption and for granting the exemption must be signed and otherwise authenticated and must include the reasons for both request and authorization.

—Require that whenever a patron leaves a gaming table with chips, personnel responsible for player-rating forms shall record the amount of chips in the patron's possession.

—Require that casinos must deposit all counter checks in a bank for payment within 14 days of the date of the transaction.

—Require casinos to redeem a credit gambler's most recent counter check.

- Expand Restrictions on Gratuities

—Prohibit the solicitation or acceptance of a tip or gratuity by a casino supervisory employee and prohibit any other employee from soliciting any tip or gratuity.

- Increase Fines

—Increase civil penalties to punish misconduct from $10,000 to $100,000 in the case of an individual and from $50,000 to $1,000,000 for a corporation—with a proviso that higher fines also can be imposed if circumstances warrant.

—Raise the level of an offense under the Casino Control Act from a disorderly person offense to a crime of the fourth degree, subject to fines of not more than $25,000 for an individual and not more than $100,000 for a corporation.

- Closer Security-Surveillance-Credit Liaison

—Require a continuing responsibility for communication in writing by casino security and surveillance departments to credit managers of information which may be useful in determining the credit worthiness of a patron.

—Require credit managers to submit a list of new credit applicants at least daily to their respective casino surveillance and security department directors.

- Strengthen Credit Files

—Require in the compilation of any patron's credit file, in addition to present requirements, the receiving/preparing clerk's signature and method of receiving application; the patron's residence and telephone, employer, address, type of business, patron's position and tenure and business phone, amount and source of income "to be considered," amount and source of outstanding debts, number of patron's personal bank account for which his signature is authorized, a specimen check, etc.

—Require that two photographs of a patron be taken by the casino licensee, with signatures of cashier and patron authenticating the photographs.

—Require that two fingerprints of applicant be taken by the licensee, signed by cashier and patron as authentication, to accompany photographs, along with date of birth and physical description.

—Require patron's signature to a statement attesting to the truthfulness and accuracy of the application, authorizing investigation of its contents and the release of same as required by law, and conceding that "willingly furnishing false information may subject me to criminal prosecution."

—Require listing of credit limit requested and names of other casinos where patron has or had "established credit."

—Require more intensive verification than now required, prior to approval of credit limit or increases, including reference to "recognized credit bureaus" that can provide gambling credit and non-gambling credit history.

—Require detailed data on patron's credit accounts at other casinos, including status at time of verification, any derogatory information and security and surveillance information.

—If no derogatory information is received, require the casino to verify a patron's bank account prior to credit line approval, and obtain bank verification in writing.

—Expand definition of "derogatory" to cover every relevant adverse form of data.

—If no credit history is available or if derogatory information is obtained, or if patron has had no credit gaming action for two years, prohibit extension of credit until bank account references are verified in writing according to seven categories.

- Penalty for Uncollectible Debt

—Impose a penalty on casino equal to the amount of uncollectible debt that results from an extension of credit after derogatory information is obtained during credit reference verification process.

—Require that each casino furnish other casinos at least the following information on a credit patron—date of account, highest approved credit limit, current limit, and full details on status of account at time of verification.

—Require credit reference vertification to be updated every six months; clarify what constitutes a verification.

—Require that any credit limit issued or changed "be commensurate" with information contained in the credit file; require credit approval signed by specified casino officials to include player rating, credit debt balances at other casinos, reason for approval if derogatory information was received.

—Reduce credit limits to zero at any casino where a patron's checks bounced until such checks have been paid in full.

- More Stringent Player Rating Reviews

—Require each licensee to establish a method for reviewing and monitoring player ratings to determine their accuracy and reasonableness.

—Prohibit any player rating review by any persons with any "incompatible functions" such as internal audit or surveillance.

—Submit review procedures to the Division of Gaming Enforcement and Casino Control Commission for approval.

- Define Uncollectible Debt More Strictly

—Mandate that a returned check is uncollectible "only if sufficient documentation" has been obtained verifying uncollectibility.

—Further define uncollectible checks for the purpose of computing any penalty to be imposed on account of inappropriately generated bad debt as all checks received by a licensee that remain unpaid 180 days after date of issue.

Recommendations on Vernon Valley Lease Misconduct

At the conclusion of its public hearing on the Vernon Valley Recreation Association leasehold in Sussex County, the Commission observed that three days of testimony had revealed "marked evidence of wrongdoing" by the corporation as well as "laxity and ineptness" on the part of State agencies which administered the lease. This testimony confirmed nonpayment and tardy payment by Vernon Valley of hundreds of thousands of dollars in rents due to the State; the diversion by Vernon Valley of millions of dollars in income from the revenue base on which State rents are calculated; construction by Vernon Valley of a lake, dams and spillways, without required permission, that confront the area with serious flood hazards; the destruction by Vernon Valley of valuable timberlands without State authorization; the failure by Vernon Valley to obtain adequate liability insurance for prolonged periods; and the false representation by Vernon Valley of a "paper" company in the British West Indies as a legitimate liability insurance carrier, which also was utilized to launder a purported $175,000 insurance premium back to Vernon Valley and to issue fake performance bonds. The testimony "particularly illustrated the arrogance with which Vernon Valley violated the terms of its lease," the S.C.I. noted at the conclusion of the hearing. Such public hearing and investigative findings were the target of the following recommendations for reforms in New Jersey's leasehold procedures involving public lands:

- Yearly Independent Audit of State Leases Which Require Rent Based Upon a Percentage of Lessee's Gross Revenues
- More Stringent Liability Insurance Safeguards When State Acts As A Landlord

- Require Subdivisions of State Government To Utilize Only Companies Licensed By The State For All Insurance Transactions, Including Performance Bonds
- Centralize Control Of All Leases Of Public Property To Private Concerns
- Enlarge DEP Staff Of Conservation Officers, Provide More Appropriate Inspections and Enforcement Equipment, and Conduct Training Program On State Lease Conditions and Requirements
- Impose a Criminal Penalty For Unauthorized Construction of Dams
- Terminate The Vernon Valley Recreation Association Lease

State Legislative Liaison

Three laws enacted during 1983 had been recommended by the Commission at the conclusion of various investigations and hearings. These were:

Local Authorities Control Act

One of the foremost recommendations that resulted from the Commission's probe of county and local sewerage and utility authorities was for direct State control over the financial operations of these and similar entities. Legislation to require this was introduced—in the Assembly by John Paul Doyle, Speaker Alan J. Karcher and Richard Van Wagner and in the Senate by John A. Lynch. The Assembly bill subsequently was merged with the Senate bill and cleared by the Legislature in July. Governor Thomas H. Kean signed it into law as Chapter 313, Laws of 1983, on August 26. The new law gives fiscal control responsibility to the Local Finance Board of the Local Government Services Division in the Department of Community Affairs and applies to all types of regional, county or local authorities and to the project financing as well as the fiscal operations of these agencies.

Insurance Pooling

Governor Kean also signed into law two measures to enable local governmental units to join together to protect themselves from risks on a "pool" basis. Such pooling was urged by the Commission after its investigation and public hearing on Public Insurance

Practices and Procedures* in 1980. An insurance pooling bill that applied to local school districts was enacted on March 15 and another that applied to other local government entities was signed on October 28. The school district measure was sponsored by Assemblymen Doyle, Frank A. Kelly, Anthony S. Marsella, Joseph A. Palaia, C. William Haines, Maureen B. Ogden, Joseph L. Bocchini, Harry A. McEnroe, Van Wagner and Thomas F. Cowan. The other pooling measure was sponsored by Assemblyman Marsella, Doyle, Wayne R. Bryant and D. Bennett Mazur.

Dental Care Law Revision

A bill to regulate the relationship of consultants and finders with dental care plan organizations was introduced by Assemblyman Anthony M. Villane Jr. after the S.C.I. investigation and hearing on organized crime incursion into labor union dental care plans. The measure, which was urged by the Commission, was enacted on January 25 as Chapter 24, Laws of 1983.

Pending Legislation

Pending during the year were various bills aimed at enacting S.C.I. recommendations from other inquiries. These included measures to improve State property leasing practices and to add criminal law penalties of 18 months imprisonment and/or up to $7,500 in fines to the present civil penalty for violating the statute governing the construction, inspection and safety of dams. The subject matter of these measures was included in the S.C.I.'s recommendations from its Vernon Valley probe. Another bill, to establish a Labor-Management Improper Practices Act, was among the Commission's recommendations after its probe of organized crime infiltration of residential construction was concluded in 1980-81. Finally, in a followup of an S.C.I. proposal after its casino credit hearings, a bill was introduced to eliminate the deduction for bad debts from casino gross revenues subject to State taxation. Also, a bill was proposed to strengthen the State law governing the creation and operation of municipal industrial commissions, based on the S.C.I.'s report in 1982 on its inquiry into the conduct of the Lakewood Industrial Commission.

* Copies of the Commission's final report on Public Insurance Practices and Procedures are available at the S.C.I. office in Trenton.

Federal Legislative Liaison

The Commission during 1983 responded to requests for investigative data and other assistance from the Federal legislature, including the House Subcommittee on Education, headed by Representative Marge Roukema. This subcommittee was provided with materials from the S.C.I.'s evaluation of federally funded Title III and Title IV-C programs in New Jersey schools under the Elementary and Secondary Education Act of 1965. This evaluation was conducted with the cooperation of State Education Commissioner Saul Cooperman. The improprieties in the processing of federal project funds, which had predated Cooperman's appointment as Commissioner, were initially revealed in a series of stories by Robert J. Braun in the Newark Star-Ledger. On February 4, 1983, James T. O'Halloran, executive director of the S.C.I., notified Cooperman that the Commission had completed its evaluation. Director O'Halloran's letter stated, in part:

> *This inquiry has led the Commission to conclude that there was serious mismangement of the program, resulting primarily from breaches of federal regulations and the failure of the Department to maintain regular procedures designed to ensure proper evaluation of applicants and oversight of recipients. In spite of these conclusions, the Commission does not intend to conduct hearings or issue a public report concerning these matters. A combination of factors, chiefly the recent factual disclosures in the press and your own announced reforms within the Department, has preempted much of what the Commission might hope to accomplish through further proceedings.*

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 Aftermath**

HFA Probe Aftermath

The Commission's second and final report on the New Jersey Housing Finance Agency (HFA)—based on an investigation requested by former Governor Brendan T. Byrne—raised questions about profiteering on housing projects under a former administration of that agency. The findings included admissions by Charles Marciante, president of the New Jersey AFL-CIO, that he had received at least $55,000 in consulting fees on one project and a return of more than $31,000 from a $1,000 investment in another project. Executive session interrogations at the S.C.I. revealed that Marciante was being paid the consulting fees even while his benefactor delayed a promised contribution of $50,000 to the AFL-CIO Scholarship Fund in return for the transfer to him of yet another project which initially had been sponsored by the AFL-CIO. The AFL-CIO's national president, Lane Kirkland, subsequently appointed a panel to review the S.C.I.'s findings. This panel responded with a report that was critical of Marciante's conduct and was followed by the designation of a "financial monitor" to police all State AFL-CIO fiscal transactions until December 31, 1985. As the Newark Star-Ledger noted in its lead editorial of October 4, 1983:

> *The severe disciplinary action is the result of an investigation into some strange, albeit profitable, extracurricular forays by Charles Marciante, the president of the state labor organization. Mr. Marciante himself was directed by Mr. Kirkland to submit an explicit annual disclaimer that is among the most unusual clauses in any labor contract.*
>
> *What the chastened Mr. Marciante has been ordered to do is to certify that he has shunned all outside business deals smacking of a conflict of interest with his employment by the state AFL-CIO. Mr. Kirkland directed that the state president provide him with a "certification on Dec. 31 and one Dec. 31 of any year thereafter, during which you are serving as an officer*

or employee of the New Jersey AFL-CIO, that during the preceding year you have not been a business associate of anyone with whom the New Jersey State AFL-CIO is doing business or with whom the state federation has done business during that year."

The national AFL-CIO report found that Mr. Marciante failed to exercise "due care" in protecting the state organization's interest and that his decisions to engage in a business relationship in Essex "were rash misjudgments that, at the least, have created an appearance of impropriety that is harmful to the good name and standing in the community of the AFL-CIO and the New Jersey State AFL-CIO."

Both of the Commission's HFA reports recommended—among numerous reform proposals—that a bipartisan oversight committee representing the Legislature, the Governor and the general public be appointed to periodically review the operations of the HFA. A bill to implement that recommendation was introduced in the Assembly in March.

powers and

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

- **U.S. Attorney**
- **Attorney General**
- **County Prosecutors**
- **Interstate Cooperation**

LAW ENFORCEMENT LIAISON

INTRODUCTION

The Commission last year was contacted by telephone or mail 80 times for various types of assistance from federal, state, county and local law enforcement agencies and from such agencies in numerous states. Additionally, the Commissioners adopted resolutions in response to formal requests for information by federal, state and county law enforcement agencies, regulatory agencies and legislative committees. A number of referrals of evidence of criminal activities were also made by the Commission pursuant to Section 9M-8 of its enabling law. The 1983 S.C.I. Review Committee described the cooperation between the Commission and Federal and State law enforcement agencies as "excellent."

LIAISON WITH THE U.S. ATTORNEY FOR NEW JERSEY

Continuing close contact was maintained throughout 1983 with the office of the United States Attorney for New Jersey, W. Hunt Dumont. Investigative data, hearing transcripts and other information were submitted to his staff, particularly in connection with the Commission's inquiries into the New Jersey Housing Finance Agency, county and municipal sewerage authorities and organized crime infiltration of dental care plans.

In March a Federal grand jury in Newark returned a 13-count indictment against Dr. Joel S. Sokol of Verona, charging him with conspiracy and mail fraud violations. Sokol was accused of scheming with Stanley Resnick of Morristown and attorney George Franconero to defraud banks and equipment leasing firms in connection with dental clinics operated by Sokol's professional association. Sokol, Resnick and Franconero, who was murdered in March, 1981, were among the key witnesses at the Commission's public hearing expose of organized crime intrusion in dental care plans, held in December, 1980. The Sokol clinics serviced various labor union locals. Resnick, in April, 1982, was convicted on charges similar to those returned against Sokol. U.S. Attorney Dumont said the Sokol indictment "resulted from evidence first developed by the S.C.I." and he expressed appreciation for the Commission's cooperation.

In February, in Camden, a Federal grand jury indicted Lawrence A. Smith in a $255,000 kickback scheme involving organized crime figures and labor union severance plans for which his company, Rittenhouse Consulting Enterprises, was the administrator. Smith also was among the key witnesses in the S.C.I.'s dental care plan probe and hearing. Named as unindicated co-conspirators with Smith were Angelo Bruno, the Philadelphia mob leader who was murdered in 1980, and Ralph Natale, a former Bartenders Union Local leader who is in federal prison for arson, racketeering and drug dealing. Bruno testified at the S.C.I.'s public hearing on organized crime activities on the periphery of the casino gambling industry in Atlantic City in 1977.

In September a six-count Federal indictment was returned against Arthur Cohen of Cranbury in connection with a scheme to defraud the Township of Ocean Sewerage Authority between 1976 and 1980. U.S. Attorney Dumont said this indictment was related to the S.C.I.'s investigation and public hearing on local sewerage authorities and chemical industry kickbacks. The indictment specifically accused Cohen and one of his companies of scheming to pay Robert Rogove more than $25,000 for the right to sell so-called treatment chemicals to the Sewerage Authority. Related bribery charges were filed against Rogove by the New Jersey Attorney General's office, to which Rogove pleaded guilty. He agreed to cooperate in the continuing federal investigation.

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Liaison With The Attorney General

During 1982 the Commission continued its liaison with the Office of Attorney General Irwin I. Kimmelman and various components of his 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 and legal 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.

As noted in the review of the Commission's liaison with the U.S. Attorney's office, Robert Rogove, a former sewerage authority superintendent, pleaded guilty to an accusation of bribery. He and certain other witnesses testified at the Commission's public hearings on sewerage authority problems in 1982 by special arrangements with Attorney General Kimmelman's office. In June, Rogove received a suspended five-year jail sentence, a fine of

$10,000 and was ordered to undertake 1,000 hours of community service.

Also in June, Colonel Clinton L. Pagano, superintendent of the State Police, invited the Commission to review the State Police Division's handling of a leak of confidential data relating to Edward Alvarez, an Atlantic City casino employee. Pagano referred records of the incident and related proceedings to the S.C.I. as a result of legislation that was pending at the time that would have directed a Commission review. This resolution was sponsored by Assemblyman William L. Gormley of Atlantic County. The S.C.I. completed its review of the case in November, concluding that the State Police investigation was thorough and that the disciplinary action that resulted was generally sufficient. Assemblyman Gormley subsequently expressed satisfaction with the Commission's review.

In December, 1982, Mimi Rohrer, the wife of Haddon Township Mayor William Rohrer, was charged with killing their adopted 2½ year old son in 1975, and the case was subsequently scheduled for trial in Camden. This case was one of a number of sudden deaths in Camden that the Commission reviewed in a report in 1979. This report attacked Medical Examiner procedures and urged statewide reforms in the handling of sudden deaths.

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. One example of this liaison was the Commission's continuing effort during 1983 to provide appropriate county prosecutors with the findings of various S.C.I. inquiries and public hearings. In this connection, the Cape May Prosecutor's office began in June the presentation of evidence to a grand jury from its probe of the Cape May County Municipal Utilities Authority. This Authority was involved in the S.C.I.'s investigation of such entities.

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 in recognition of the importance of cooperation among the states in areas such as organized crime, responded to all such requests. The Commission itself also obtained assistance from various other states on matters of mutual concern with particular relevance to organized crime and racketeering.

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**

Staff Performance

As in past years, various officers and employees of the Commission participated in conferences, seminars and workshops conducted by federal or state law enforcement agencies or associations. A Commission lawyer, James A. Hart, III, a former assistant prosecutor in Union County, helped to arrange a conference of the New Jersey Narcotics Enforcement Officers Association at Cape May on June 14-17 and also moderated a mock trial and panel discussion on the role of a police officer as a witness. Another staff lawyer, Gerard P. Lynch, as a Vice Chairman of the Magloclen Association—the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network—arranged for the use of special funds and facilities of the Association in connection with certain S.C.I. investigative activities. In addition, Executive Director James T. O'Halloran authorized agency participation in the Association's training programs, which were attended by Deputy Director James J. Morley, Special Agents Wendy A. Bostwick, Dennis McGuigan, Anthony J. Quaranta, Raymond H. Schellhammer and Kurt Schmid, and Intelligence Analyst Robert Lagay.

The Commission's staff in 1983 consisted of 42 individuals, including 5 accountants and 14 special agents.

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, Julius Cayson, lectured at the State Police training school. The S.C.I.'s fiscal officer, Honey Gardiner, attended the annual Gaming Conference sponsored by the New Jersey Society of CPAs at Atlantic City on October 26-27. Three accountants are Certified Public Accountants and two hold Master of Business Administration degrees. Two 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

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 office, 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. Special Agent William P. Rooney continued during the year a program of lectures on the background and objectives of the S.C.I. before groups of municipal police and State Police trainees. He conducted such lectures at County police training centers in Monmouth, Essex, Middlesex and Bergen and at the State Police Training Academy in Sea Girt.

Investigative Teams

Staff Counsel Michael V. Coppola directed the S.C.I.'s investigation of credit abuses in the casino industry in Atlantic City. His team, which laid the foundation for a successful four-day public hearing presentation in early March, included Special Agents Bostwick, Richard S. Hutchinson, McGuigan and Schmid, Investigative Accountants Gardiner and Christine Klagholz, and former Accountant Frank Zanino, who retired during the inquiry.

Staff Counsel Hart supervised the team which conducted the investigation of misconduct by lessee and lessor in the operation of the Vernon Valley Recreation Association's leasehold in Vernon Valley. The members of this team, which was responsible for an effective public hearing on the subject in late March, included Chief Accountant Cayson and Special Agents Bruce C. Best and Schellhammer.

In addition, Deputy Director James J. Morley supervised a task force which conducted an inquiry into mishandling of Federal school grants at the request of the State Education Department. This task force included Chief Accountant Cayson, Investigative Accountant Arthur A. Cimino and Special Agents Robert Diszler

and Michael Goch. Executive Director James T. O'Halloran and Morley also directed a disciplinary action review requested by the State Police with the assistance of Special Agent Joseph Corrigan. Other investigative teams of lawyers, special agents and accountants also were engaged throughout the year in assignments that will result subsequently in public reports, public hearings or both.

Finally, as the year ended, the SCI prepared an Interim Report on the Inadequate Regulation of Boxing for distribution to the Governor, the Legislature and the public in March. The Commission's investigative team for this report consisted of Deputy Director Morley, team leader, and Attorney Gerard P. Lynch, Special Agents Robert Diszler, Bostwick, McGuigan, Schmid, Quaranta, Analyst Lagay and Investigative Accountant Cimino.

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

- **Introduction**
- **Public Hearings, Reports**
- **Citizen's Assistance**

LIAISON WITH THE PUBLIC

INTRODUCTION

Since its inception the Commission has sponsored a total of 73 public actions, including 25 public hearings, 31 public reports based on those hearings, and 17 public reports which were not preceded by public hearings. These public actions are mandated by various provisions of the S.C.I.'s enabling law as supplemented by revisions enacted since 1968. For example, annual and interim reports to the Governor and Legislature have been required from the outset. Such reports have helped to fulfill another requirement that the Commission keep the public informed as to the operations of organized crime, law enforcement problems and other activities "by such means and to such extent as it shall deem appropriate." The 1983 S.C.I. Review Committee stated that it "found the reports produced by the S.C.I. in connection with its investigations to be of a high quality." An original statutory provision that the Commission assist in "the making of recommendations by the Governor" to the Legislature has been augmented by also requiring the S.C.I. to conduct investigations and otherwise assist in "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." In line with these expanded reporting responsibilities, revisions have also mandated that the S.C.I. 1) submit to the Governor and Legislature "within 60 days of holding a public hearing" any recommendations which result from such a hearing, and 2) if a recommendation concerns pending legislation to advise the sponsor and appropriate committee chairman prior to issuing the recommendation.

PUBLIC HEARINGS, REPORTS

A brief listing of the S.C.I's 73 public actions 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), criminal activities in Ocean County (1972), narcotics trafficking (1973), infiltration of legitimate businesses in Atlantic City (1977), incursions into the dental health care industry (1980-81) and into labor relations profiteering at housing projects (1981-82). 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 (1976-77), improper conduct by private schools for handicapped children (1978), boarding home abuses (1978), absentee ballot law transgressions (1978), mishandling of public insurance programs (1979), misconduct by certain county and local sewerage authorities (1982), abuse and misuse of casino gambling credit (1983), and improprieties in the leasing of state lands by a ski resort in Vernon Valley (1983). 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), wrongful tax deductions from public employees' injury leave wages (1979), mishandled sudden deaths (1979), truck unloading complaints (1980), inappropriate HFA conduct (1981 and 1982), and industrial commission law reforms (1982).

Citizens Assistance

As in past years, hardly a week passed in 1983 that the Commission did not receive requests for investigative action, assistance or advice from citizens of New Jersey. Commission records include more than 40 such contacts by citizens, mostly for the purpose of filing complaints about law enforcement and other problems affecting them or their communities.

52:9M-19. 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.*

** Excerpt from S.C.I. Law*

S.C.I. REVIEW COMMITTEE

- **Introduction**
- **Report in Full**
- **Legislative Followup**

S.C.I. REVIEW COMMITTEE

INTRODUCTION

In 1979 the statute creating and governing the operation of the S.C.I. was amended to include the following provision:

> *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.

As required, such a review committee was established in the Spring of 1982. Governor Thomas H. Kean appointed Thomas R. Farley, a former judge and a former S.C.I. commissioner; William B. McGuire, and Mercer County Executive Bill Mathesius, a former staff attorney with the S.C.I. Senate President Carmen A. Orechio selected William L. Brach and James M. Piro. Assembly Speaker Alan J. Karcher appointed former Assemblyman Albert Burstein and Carl Valore, Jr. All are members of the New Jersey Bar.

The Committee elected Burstein as chairman and Farley as vice chairman, and designated John J. Tumulty as secretary.

The Committee held a series of meetings extending into 1983 to gain an understanding of how the S.C.I. functions, how investigations are conducted and how recommendations are formulated. The Committee took testimony from the present commissioners and executive director of the S.C.I. and from all former chairmen

of the agency to obtain the views of those who are or were in the past directly responsible for its operations. The Committee also received testimony from Attorney General Irwin J. Kimmelman and U.S. Attorney W. Hunt Dumont with regard to the interaction of the S.C.I. with other law enforcement agencies, and from the Pennsylvania Crime Commission and the New York State Commission of Investigation to compare the operation of New Jersey's S.C.I. with that of similar bodies in other states. Published notices of its meetings also resulted in testimony from several individuals who were critical of the S.C.I.'s procedures as a result of experiences as witnesses or attorneys in S.C.I. investigations. Finally, the Committee reviewed several major reports issued by the S.C.I. and documents furnished by the S.C.I. outlining its internal procedures.

The Review Committee submitted its findings and recommendations to the Governor and the Legislature in June of 1983. One of the Committee's recommendations was that the S.C.I.'s term be extended for another five years, to December 31, 1989.

The Review Committee's Report

I. Status of the S.C.I.

As previously noted, since its inception in 1969 the State Commission of Investigation has been operating on a temporary basis, and the authorization for its continuation was legislatively extended in 1973 and 1979. The present authorization expires on December 31, 1984. A primary issue which the Committee addressed was whether to recommend continuation of the S.C.I. It is the Committee's unanimous recommendation that authorization for continuation of the S.C.I. should be extended beyond 1984. The Committee is aware that it has been suggested that the S.C.I.'s investigatory activities duplicate those performed by other agencies involved in law enforcement. It also heard testimony critical of the manner in which past investigations were conducted. The Committee, however, is of the opinion that on balance the S.C.I. performs a unique function, and through its ability to focus public attention on a particular problem or situation performs a vital public service. The Committee's position is reinforced by the views of Attorney General Irwin Kimmelman and U.S. Attorney W. Hunt Dumont that the S.C.I. continues to serve as an important adjunct to New Jersey's criminal justice system.

The next issue considered by the Committee was whether to recommend that the S.C.I. be granted permanent status.

In addressing the issue of permanency, the Committee is cognizant of the desire on the part of the S.C.I. itself, as expressed by Chairman Arthur S. Lane, Commissioners Robert DelTufo, William S. Greenberg and Henry S. Patterson, and Executive Director James T. O'Halloran that the agency be granted permanent status. The Committee is also aware that Governor Kean and Attorney General Kimmelman advocate permanency and that legislation is presently pending under the sponsorship of members of both political parties that would make the S.C.I. a permanent body.

While respecting the sincerity of these views and recognizing that this issue is a close question on which reasonable minds may differ, the Committee is of the opinion that the authorization for the S.C.I. should be extended for five years but that the S.C.I. should not be made a permanent agency.

The rationale for this recommendation rests in part on the Committee's finding that the role of the S.C.I. is an evolving one. Clearly, in its early stages, the S.C.I. was primarily focused on organized crime activities. Over the years, this focus has shifted toward investigations involving governmental mismanagement and improprieties. It is unclear what role the S.C.I. will assume in the future. Therefore, the Committee feels that a periodic review of the S.C.I. and its role in the public life of New Jersey is essential.

Another consideration underlying the Committee's recommendation lies in the basic nature of the S.C.I. as an institution. It has authority to investigate a limitless range of governmental activities at every level. Coupled with this broad scope of authority is the S.C.I.'s power during the course of its investigations to compel testimony through its subpoena power and to grant testimonial immunity to witnesses. The S.C.I. can compel witnesses to appear at public hearings, and it can cite individuals in the reports it issues. Because the courts have found the S.C.I. to be an investigatory rather than a prosecutorial body, these powers are exercised outside the traditional adversarial relationship of the criminal justice system and the protection of the procedural requirements of due process that are an integral part of that system.

By emphasizing that the S.C.I.'s temporary status should inhibit the potential abuse of its powers the Committee does not intend to imply that the present scope of the S.C.I.'s authority or its powers should be curtailed; nor does the Committee intend to suggest that either past or current commissions have seriously abused their power or authority. The Committee does believe, however, that a means of control must be maintained. Given the commission's powers and potential for abuse, periodic review seems to be appropriate. Additionally, the Committee finds that since the role of the S.C.I. is broadly defined and somewhat amorphous, such review will help to insure that the S.C.I. continues to perform a useful function.

The Committee therefore concludes that a primary cause for the S.C.I.'s generally exemplary record is that it is subject to periodic review. The rationale for the recommendation of continuation on a fixed term basis also rests in part on the Committee's belief that the effectiveness of the S.C.I. has not been materially hampered by its temporary status. Representatives of the S.C.I. suggest that the non-permanency status has had a deleterious effect on staff morale. No convincing evidence, however, was produced indicating that the S.C.I. has had a serious problem either in recruiting competent personnel or in retaining that personnel.

For example, in his testimony before the Committee, Executive Director O'Halloran expressed satisfaction with the quality of the present S.C.I. staff. Additionally, it is interesting to note that while present Chairman Lane and former Chairman Joseph H. Rodriguez urged permanency in their testimony before the Committee, two former chairmen, William F. Hyland and John F. McCarthy, believed that the S.C.I. should continue on a temporary basis and that its temporary status did not create staff problems. It should be further noted that the equivalent agencies to the S.C.I. in our neighboring states, the New York Commission on Investigation and the Pennsylvania Crime Commission, exist on a temporary basis.

Moreover, the Committee finds that one of the S.C.I.'s strengths is the flexibility created by its small staff operating within an uncomplicated administrative structure. This structural flexibility permits the S.C.I. to shift easily from area to area as investigative needs arise. The Committee is of the

opinion that if the S.C.I. were made permanent, there would be a tendency toward bureaucracy resulting in a loss of flexibility and effectiveness. The Committee further concludes that the present S.C.I. staffing is adequate and should only be increased under unusual circumstances.

Another consideration which the Committee weighed in deciding the issue of permanency was what effect such a change in status would have on the relationship between the S.C.I. and other law enforcement agencies in New Jersey. The Committee found that presently the level of cooperation between the agency and the Attorney General's Office and the U.S. Attorney's Office is excellent. However, the Committee also heard testimony that this cooperation was not always the rule in the past. The Committee is concerned that by making the S.C.I. a permanent agency there can develop a type of bureaucratic mentality which could result in an increase of interagency jealousy and a breakdown in the cooperative attitude which now prevails.

In considering this issue, the Committee reviewed other means by which the S.C.I. could be monitored. None of these proved satisfactory. Moreover, the Committee concludes that even if a meaningful method could be devised, the temporary status of the S.C.I. should be retained because it is a psychological restraint against due process excesses with respect to individuals brought before it. One can readily imagine that this organization in the wrong hands, unchallenged and unchecked, could cause grave harm.

In conclusion, the Committee notes that a companion statute enacted in 1968 when the S.C.I. was created, was the New Jersey Wiretapping and Electronic Surveillance Control Act. Similarly, this statute is subject to periodic renewal. Both the wiretapping law and the S.C.I. are aids to law enforcement which, if abused, could deeply affect the civil rights of those involved. It is the Committee's belief that the Legislature's sensitivity to the rights of individuals was part of the reasoning which led to the enactment of the wiretapping statute and the S.C.I. on a fixed term basis.

Based upon the foregoing the Committee concludes that the temporary status of the S.C.I. should be continued.

II. Commission Structure

The unanimous recommendation of the Committee is that the present structure of the S.C.I., which consists of four part-time commissioners appointed for three-year terms (two by the Governor, one by the Assembly Speaker and one by the Senate President) should remain intact. There was some discussion that the office of commissioner should be made full-time, based on the Committee's recognition that the workload of the commission is heavy. Full-time status was also considered because the Committee viewed the close supervision of staff operations as one of the keys to the successful operation of an agency like the S.C.I. Despite these concerns, the Committee strongly feels that any advantage that might result from full-time commissioners is clearly outweighed by the fact that persons of the high caliber of both the present and past S.C.I. commissioners might not be able to serve on a full-time basis.

The Committee also specifically reviewed and rejected a recommendation made by the S.C.I. that the terms of commissioners be increased from three to five years. The Committee finds that the periodic infusion of new thought and perspective brought by changeovers in membership is vital. In connection with this finding, the Committee recommends that membership on the S.C.I. be limited to two three-year terms.

III. Investigatory Authority

As set forth in *N. J. S. A. 52:9M–2*, the S.C.I.'s investigatory authority is of such a broad scope so as to encompass virtually every aspect of the administration of the laws of New Jersey at all levels of government. During the course of its review, the Committee discussed whether the vagueness and wide scope of the S.C.I.'s investigatory power should be limited or perhaps better defined. The Committee's consensus is that its wide scope and range is one of its main strengths and is compatible with the S.C.I.'s investigatory mission. A recommendation for change is therefore not necessary. The Committee notes, however, that incident to its major task of uncovering the influence of organized crime and impropriety in government, the S.C.I. does from time to time address itself to matters of governmental economy and efficiency. It is the Committee's view that, as the mandate of the S.C.I. is broad and its resources limited, investigations emphasizing economy

and efficiency should be the primary responsibility of other agencies.

IV. Gubernatorial and Legislative Investigation Requests

Presently, under the provisions of *N. J. S. A. 52:9M–4,* the governor or the legislature may request that the S.C.I. conduct an investigation of a particular governmental entity. It was suggested during the Committee's discussions that perhaps this provision should be modified because, at least in theory, such a "request" may be used to harass the S.C.I. or alternatively to involve the S.C.I. in politically motivated investigations. The Committee feels that this provision is not in need of modification because the 1979 amendments to the S.C.I. statutes permit it, if unable to proceed, to ask the requesting entity to review its request. The Committee also notes that during the S.C.I.'s history, there has been no evidence of the governor or the legislature attempting to use the provision in an improper manner.

In connection with this issue, the S.C.I. is presently required to report its recommendations with regard to an investigation requested by the governor or the legislature within 60 days of holding a public hearing. (*N. J. S. A. 52:9M–4.2.*) The S.C.I. suggested that this time period be extended to 120 days because the 60 day period is inadequate to prepare a report. The Committee concurs with this recommendation.

V. One-Commissioner Hearings

Presently, *N. J. S. A. 52:9M–12(d)* permits the S.C.I. to conduct private hearings with only one commissioner present. There was some suggestion during the Committee's study that this practice should be discontinued on the ground that one commissioner sitting alone could improperly sway the course of an investigation and could deprive a witness appearing in private session of due process.

The Committee's view is that no harm results from the "one commissioner" practice. There are several reasons for this conclusion. The role of a commissioner at a private hearing is similar to that of a hearing examiner. The Commissioner does not conduct the hearing but is present to gather information. Further, a transcript of all testimony taken in private hearings is kept and made available to all commissioners.

Also, a witness appearing at a private hearing may supplement his testimony.

The Committee further recognizes that any damage to a witness's reputation in most cases is caused by testimony at a public hearing or information included in a published report and not by an appearance at a private hearing. It determines, therefore, that with the part-time status of commissioners the practice of one commissioner conducting a private hearing is an administrative necessity.

In connection with the issue of one-commissioner hearings, the S.C.I. noted that *N. J. S. A. 52:13E–9* of the Code of Fair Procedure, which the S.C.I. follows, does not permit one-commissioner hearings. The Committee is supportive of the S.C.I.'s suggestion that the cited provision be amended to become consistent with *N. J. S. A. 52:9M–12(d)*. The Committee also suggests that *N. J. S. A. 52:9M–12(d)* should be reworded to make clear that one-commissioner private sessions are the normal procedures followed in the S.C.I.

VI. Right of Persons Named in S.C.I. Report to Respond Prior to Publication

One of the Committee's main concerns in reviewing the activities of the S.C.I. was to insure that any person who is to be unfavorably mentioned in an S.C.I. report be given an opportunity to respond prior to the publication of the report. The Committee heard testimony that such an opportunity was not always given in the past.

In response the S.C.I., through correspondence from Executive Director O'Halloran, outlined a policy that it has formally adopted addressing this concern. Under this policy, a person who is to be unfavorably mentioned in an S.C.I. report will be given reasonable and timely notice prior to publication. The person would then be given an opportunity to appear before the commission either in private or public session or to submit a written statement outlining his position.

The Committee is in total accord with this policy. The Committee suggests that it be clear that the decision as to whether a person responds in public or private session before the S.C.I. should be made by the affected individual. The Committee also recommends that in those instances where a written statement is submitted, the S.C.I. should not be com-

pelled to include the statement in its report, but the fact that such a statement was submitted and that it is available for information should be noted in the report.

VII. Other Considerations

A. *Testimonial Immunity*: One of the S.C.I.'s most important investigatory tools is the granting of testimonial immunity pursuant to the provisions of *N. J. S. A. 52:9M–17*. During the course of its review, the Committee was pleased to find that the S.C.I. was judicious in the use of testimonial immunity. The Committee also found that the U.S. Attorney's Office, the Division of Criminal Justice and county prosecutors are routinely given adequate prior notice of the commission's intention to grant immunity to a particular individual. This is vital so that the granting of immunity by the S.C.I. does not interfere with other ongoing investigations. The Committee commends the S.C.I. for its practice in this regard. The Committee notes, however, that although notice of an intention to grant immunity is statutorily required to be given to the Division of Criminal Justice and county prosecutors, notice to the U.S. Attorney's Office is not required by statute. The Committee is of the opinion that notice of the S.C.I.'s intent to grant immunity should be statutorily required to be given to the U.S. Attorney's Office.

B. *Implementation of S.C.I. Recommendations:* During the Committee's discussions a question arose about the role the S.C.I. should take in pursuing the enactment of the recommendations contained in its reports. It was noted that recommendations found in several recent S.C.I. reports remain unaddressed. It is the Committee's view that it is the responsibility of the executive and legislative branches to assess and, where appropriate, implement S.C.I. recommendations. Therefore, the validity of S.C.I. recommendations should not necessarily be judged on the basis of their adoption or implementation by other agencies of government.

C. *Code of Ethics*: Another issue raised during the Commttee's discussions was whether, given the sensitive nature of S.C.I. activities, a specific code of ethics should be included in the S. C. I.'s enabling legislation. The Committee concludes, however, that since the S.C.I. has administratively adopted a code of ethics, no recommendation in this area is necessary.

D. *Second H.F.A. Report:* In general, the Committee found the reports produced by the S.C.I. in connection with its investigations to be of a high quality. The Committee would be remiss, however, if it did not comment on problems relating to the second report issued by the S.C.I. on the Housing Finance Agency.

The primary concern of the Committee with this report was the nearly two-year hiatus between the issuance of the first H.F.A. report (March 23, 1981) and the second report (December 27, 1982). The Committee is concerned that this delay inhibited the work of an important agency of State government, while it patiently waited for the "other shoe to drop." The S.C.I. explained that the delay was caused by the departure of several staff members involved in the H.F.A. investigation. This resulted in problems in preparation of the H.F.A.'s second report. While accepting this explanation, the Committee is still of the opinion that the issuance of the second H.F.A. report was unduly delayed.

Furthermore, the Committee is troubled by the report's lack of emphasis on the evident political connections of those involved in H.R.A. projects and the way in which these connections affected the handling of certain projects by the H.F.A. As previously noted, one of the S.C.I.'s main functions is the exposure of improprieties in the operations of governmental entities. The Committee feels that the S.C.I.'s failure to emphasize the role that political influence or favoritism may have played in operation of the H.F.A. during that time period is atypical of the candor and forcefulness that characterized its other reports and that the citizens of New Jersey have come to expect from the S.C.I.

VIII. Summary

Pursuant to the provisions of *N. J. S. A. 52:9M-19*, the 1982-83 S.C.I. Review Committee recommends the following to the Governor and members of the Legislature:

1. That the authorization for the establishment of the New Jersey State Commission of Investigation be extended until December 31, 1989.

2. That the number of terms a person may serve as Commissioner on the S.C.I. be limited to two three-year terms.

3. That the time limitation for the S.C.I. to issue a report pursuant to *N. J. S. A. 52:9M–4.2* be extended from 60 to 120 days.

4. That the Fair Practice Act be amended to be consistent with *N. J. S. A. 52:9M–12(d)* and permit the S.C.I. to continue the practice of one-commissioner private hearings.

5. That notice of the S.C.I.'s intent to grant testimonial immunity be required by statute to be given to the New Jersey Office of the U.S. Attorney.

One final suggestion which the Committee would like to make does not directly involve the S.C.I. but the review process itself. The Committee feels that if the practice of appointing a review committee is to be continued in 1986, a suitable legislative appropriation should be provided to that Committee.

Legislative Followup

Although a number of bills had been pending in the 1982-83 Legislature to make the S.C.I. a permanent agency, additional measures were proposed that incorporated all or parts of the Review Committee's recommendations based on a five-year term renewal. These included a bill by Senate President Orechio and a somewhat different version by Assemblyman Martin A. Herman. Meanwhile, although pleased by the Review Committee's extremely favorable report on its performance, the Commission continued to urge that the Legislature eliminate periodic threats to the S.C.I.'s existence by establishing it as a permanent part of State government.

APPENDIX

- S. C. I. Statute

APPENDIX

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 this 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 descretion 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.