

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

24th ANNUAL REPORT

1992



STATE OF NEW JERSEY

COMMISSION OF INVESTIGATION

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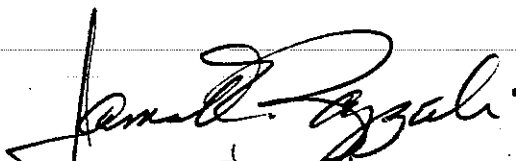
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The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally submits, pursuant to N.J.S.A. 52:9M, its 24th annual report for the year 1992.

Respectfully,



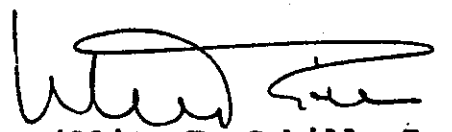
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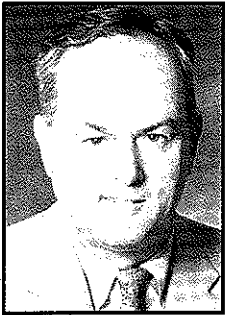
Kenneth D. Merin



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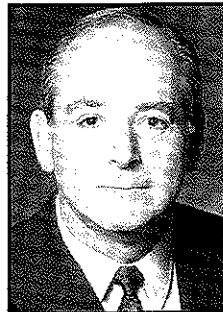


Members of the Commission



James R. Zazzali

Attorney, Rumson; partner, Zazzali, Zazzali, Fagella & Nowak, Newark. Appointed to Commission May, 1984 by Gov. Kean. Attorney General of New Jersey, 1981-1982; general counsel, N.J. Sports & Exposition Authority, 1974-1981; assistant prosecutor, Essex County, 1965-1968; associate editor, New Jersey Law Journal; served as court-appointed master to investigate conditions at jails in Monmouth, Essex & Bergen Counties & in Newark; member, Supreme Court Disciplinary Review Board. Graduated 1958, Georgetown College; 1962, Georgetown Law Center.



Barry H. Evenchick

Attorney, sole practitioner, Livingston. Appointed to Commission June, 1987 by Assembly Speaker Chuck Hardwick. Associate editor, New Jersey Law Journal; New Jersey representative, Commission on Uniform Legislation; former chief, appellate sections, Essex County Prosecutor's Office and State Division of Criminal Justice; township attorney, Livingston, 1975-1986. Graduated 1960, Rutgers University; 1963, Rutgers Law School.



Kenneth D. Merin

Attorney, Morristown; partner, Kroll & Tract, New York City. Appointed to Commission January, 1990 by Governor Thomas H. Kean. Commissioner, New Jersey Department of Insurance, 1984, 1986-90; director, Governor's Office of Policy and Planning, 1985-86; deputy chief counsel to the Governor, 1982-84; former congressional aide. Graduated 1969, George Washington University; 1975, Seton Hall Law School; 1980, George Washington Law School (LL.M.). Veteran, Vietnam War; recipient of Bronze Star; discharged as a first lieutenant, infantry, in 1972.



William T. Cahill, Jr.

Attorney, Haddonfield; partner Cahill, Wilinski & Cahill. Appointed to Commission in May, 1991 by Senate President John A. Lynch. Assistant prosecutor, Camden County, 1972-1975; municipal prosecutor, Haddon Heights, 1975-1978, and Collingswood, 1975-1991; former member, Supreme Court District Ethics Committee (Camden County) 1989 - 1990, Camden County Bar Association Judicial Appointments Committee, 1990 - 1991. Graduated 1969, Xavier University; 1972, Catholic University Law School.

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INTRODUCTION

The New Jersey State Commission of Investigation (SCI) was created in 1968 after extensive research and public hearings conducted 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. Its final report, which confirmed that a crisis in crime control did exist in New Jersey, attributed the expanding activities of organized crime to "failure to some considerable degree in the system itself, official corruption, or both." Sweeping recommendations for improving various areas of the criminal justice system were proposed.

Two of the most significant recommendations of the Committee were for a new State criminal justice unit in the executive branch 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 factfinding 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 Committee's recommendations prompted immediate supportive legislative and executive action. New Jersey now has a Criminal Justice Division in the Department of Law and Public Safety and an independent State Commission of Investigation, which is structured as an

agency of the Legislature. The new laws were designed to prevent conflict between the functions of the Commission and the prosecutorial authorities of the state. The latter have the responsibility to seek indictments or file other charges of violations of law and bring the violators to justice. The Commission, on the other hand, has the responsibility to expose wrongdoing or governmental laxness by fact-finding investigations and to recommend new laws and other remedies to protect the integrity of the government process.

Legislation creating the State Commission of Investigation was introduced on April 29, 1968, in the Senate. Legislative approval of that measure was completed on September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969, and ending December 31, 1974. The Legislature on four subsequent occasions extended the term of the SCI for five-year periods—in 1973 for a term expiring December 31, 1979; in 1979 for a term expiring December 31, 1984; in 1984 for a term expiring December 31, 1989, and in 1989 for a term expiring on December 31, 1994.

The complementary role of the SCI was noted in two comprehensive, impartial analyses of the Commission's record and performance—in 1975 by the Governor's Committee to Evaluate the SCI and in 1983 by the State Commission of Investigation Review Committee. Both of these reports stated that the SCI performs a valuable function and that there is a continuing need for the Commission's work. The 1983 review panel said its advocacy of the Commission was reinforced by the views of top law enforcement officials in the State that the SCI "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 responsibilities vested in the Commission are set forth in its statute:

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

- (a) The faithful execution and effective enforcement of 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, by concurrent resolution of the Legislature, and of any state department or agency at the request of the head of the department or agency.

The statute assigns to the Commission a wide range of responsibilities and powers. It may compel testimony and the production of other evidence by subpoena and has authority to ~~grant immunity from prosecution to witnesses.~~ Since the Commission does not have prosecutorial functions, it is required to refer information of possible criminality to appropriate prosecutorial authorities.

One of the Commission's responsibilities, when it uncovers irregularities, improprieties, misconduct or corruption, is to bring the facts to the attention of the public. The objective is to promote corrective actions. The format for public actions by the SCI is based on the complexity

of the subject and the clarity, accuracy and thoroughness with which the facts can be presented. The Commission may proceed by way of public hearing, a public report or both.

In its proceedings, the Commission adheres to the New Jersey Code of Fair Procedure, the requirements of which were incorporated in the Commission's enabling law in 1979. These provisions afford the protection 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 given an opportunity to make a statement under oath relevant to the testimony or other evidence. The statements, subject to a determination of relevancy, are incorporated in the records of the Commission's public proceedings. Before undertaking a public action, the Commission evaluates investigative data in private in keeping with its obligation to avoid unnecessary stigma and embarrassment to individuals.

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

I

PUBLIC ACTIVITIES

Bergen County Utilities Authority

In December 1992, the Commission released a comprehensive report on "Solid Waste Management by the Bergen County Utilities Authority." The report was the culmination of an extensive investigation of the BCUA's solid waste activities during the 1980s and its implementation of an out-of-state disposal system in 1988. Specifically, the Commission examined the processes that led to the BCUA's award of contracts (1) for the transportation and out-of-state disposal of solid waste, (2) for the equipment and labor to operate a temporary transfer station, and (3) for the construction of a permanent transfer station in North Arlington Boro, together with its acquisition of the transfer station site.

The Commission's investigation was triggered by allegations that the public emergency declared by the BCUA on November 30, 1987, which allowed it to bypass the competitive bid process and negotiate directly with prospective vendors, was contrived, that the award of the contracts was riddled with improprieties, and that there were payoffs. At the center of the allegations was the issue of whether the BCUA performed its responsibilities competently and diligently. In examining these issues, the Commission necessarily explored the conduct of the various vendors in providing solid waste services to the BCUA. The Commission concluded that

the interests of the ratepayers of Bergen County were not served by the BCUA's management of the solid waste activities.

The BCUA knew as early as 1983 that it would not be able to dispose of garbage in the Hackensack Meadowlands District after December 31, 1987. Although it pursued two initiatives that would have averted an emergency and provided for well-planned, reasonable and far less costly solutions to the solid waste crisis, the BCUA inexplicably abandoned both. In 1986, for instance, the BCUA commenced negotiations with the Hackensack Meadowlands Development Commission for an interdistrict agreement that would have allowed Bergen County to continue disposing of its garbage in the Meadowlands beyond December 31, 1987, and until its resource recovery facility became operational. However, at the end of 1986, the BCUA withdrew from the negotiations. No witness for the BCUA was willing or able to explain why. At the same time, however, the BCUA began preparation of requests for proposals to obtain a vendor to provide transportation and disposal at out-of-state landfills. The documents were ready for issuance in early 1987, but were never released. Again, no BCUA witness provided an explanation. By failing to bring to fruition either of these initiatives, the BCUA hurled itself toward the December 31, 1987, exit date and declared an emergency only one month before the date. The Commission found that the BCUA created its own emergency. By declaring an emergency, the BCUA was able to proceed directly to negotiations for the solid waste contracts. As a result, the BCUA awarded contracts in the frantic and hurried atmosphere of an emergency and completed the process to the detriment of the ratepayers in whose interest the BCUA was supposed to act.

Declaration of an emergency triggered a negotiation process that culminated in a solid waste collection and disposal program lasting approximately four years. Although a number of factors during the negotiation and selection process raised suspicions, the Commission's investigation produced no evidence that individuals conspired in the award of the contract or that there were payoffs in connection with the award. However the Commission did determine that the transportation and disposal contract was steered primarily by then-BCUA Chairman Vincent A. Caldarella, who subsequently became employed by one of the vendors, and by then-Commissioner Thomas J. Toscano, who is now the Authority's deputy executive director.

The Commission concluded that the BCUA crafted an extravagant solid waste program that needlessly cost the ratepayers of Bergen County many millions of dollars. The BCUA rejected a simple, far less costly plan of constructing a transfer station facility and hiring a vendor to provide the equipment and labor to load, transport and dispose of the solid waste. Instead, the BCUA orchestrated an elaborate, convoluted two-phase plan.

The *first stage*, or interim phase, consisted of seven months of handling the waste in loose form and involved the construction of a temporary slab, the hiring of a vendor (Compaction Systems Corp.) to provide equipment, a second vendor (Willets Point Contracting Corp.) to furnish the labor and a third (Mitchell Environmental, Inc./Laidlaw Industries, Inc.) to transport and dispose of the garbage; but, because Mitchell was unable to handle the waste in loose form, Mitchell had to assign its responsibilities to the other two (Compaction and Willets).

The *second stage* consisted of the costly acquisition of a site for the transfer station, the costly construction of an enclosed baler facility, which would be needed for that purpose for only three to five years, the purchase and installation of four balers, plus a conveyor system, the construction of a rail system, the purchase of forklifts, loaders and other equipment and the hiring of additional personnel. Furthermore, the BCUA found it necessary to engage six different engineering firms and six separate contractors for the construction of the transfer station in the second stage. The cost of the program selected by the BCUA exceeded \$225,000,000.

The BCUA contracts, together with the private financial arrangement entered into among Mitchell, Compaction and Willets, resulted in inordinate profits for the vendors. For example, Mitchell's 1987 net profits and salaries to principals of \$107,549 soared to \$6,497,534 in 1988, the first year of the BCUA contract. Its approximate net worth of \$25,000 in 1987 ballooned to approximately \$2,900,000 in 1988. In addition, the BCUA project allowed Benny R. Villani and Martin A. Sternberg, Compaction's two owners, to split \$3,406,636 in 1988. Further, extensive examination of financial documents by the Commission's accountants disclosed that massive amounts of money were moved among the Sternberg-Villani companies in several states and that significant sums were withdrawn from accounts located outside New Jersey and beyond the reach of the Commission's subpoena power. Therefore, these monies were untraceable.

The Commission also found that the BCUA's imprudent expenditure of public funds for the transfer, transportation and disposal of solid waste turned into an avalanche of spending when the BCUA constructed the temporary transfer station, purchased the site for the transfer

station/baler facility and constructed the facility. If the BCUA had planned properly, obviating the need to declare an emergency, there would have been sufficient time to design and construct one suitable transfer station and no need for a temporary facility. The \$4,543,194 cost for the interim transfer station was completely avoidable and was due solely to the BCUA's earlier inaction. The BCUA's failure to act also resulted in its paying an exorbitant price to acquire the site for the transfer station/baler facility. The BCUA paid \$6,500,000 for the site — \$1,000,000 more than the value of the parcels contained in the appraisal report from Management Associates, Inc. The BCUA's acquisition of the property, at an inflated price, together with its excessive payment of \$37,500 for an inferior and inaccurate appraisal report, exemplified the BCUA's waste of public funds. In addition, the BCUA's mismanagement resulted in its paying substantially higher costs for the construction of the facility and \$5,500,000 in construction delay costs to subsidize the transportation and disposal operation. Finally, it cannot be ignored that the enormous 160,000 square foot facility that the BCUA constructed with a useful life of 20 to 25 years is presently used to handle a mere 350 to 400 tons of solid waste per day and negligible quantities of recyclables, residual ash and non-processible waste.

During the interim phase, which began on March 1, 1988, and preceded the construction and operation of the transfer station baler facility, the BCUA grossly overpaid for equipment rentals, paid for artificially inflated equipment rentals and paid for labor and equipment services without awarding contracts. In the construction of the permanent transfer station, the BCUA paid for change orders that proved so extensive as to alter the original contract terms and insure upwardly spiralling contract prices. During both the interim and permanent operations, the

BCUA exhibited a complete lack of oversight and planning.

Ultimate responsibility for the BCUA's failure to conduct its affairs in a competent manner and to protect the interests of the ratepayers must rest with its Commissioners. It was they who were charged with the duty to set policies and goals and to insure that they were carried out in a timely and effective manner. Consultants and staff cannot act without direction and authorization. This Commission found that the BCUA Commissioners failed to exercise proper oversight in directing the BCUA's solid waste management activities.

* * *

This Commission's report concluded with recommendations designed to strengthen accountability over all authorities in the state, to promote their open and honest operation and to safeguard the public's interest. The recommendations are summarized as followed:

- The appointment of competent and intelligent commissioners, willing to devote their time and attention to the authority's business, will insure the integrity of the authority and its effective operation.
- No political party should have a majority of more than one vote on any authority.
- There must be veto power over the minutes of authorities by a two-thirds or three-

quarters majority of the board of chosen freeholders, or by the chief executive officer where a county charter form of government exists, with possible override by a two-thirds or three-quarters majority of the freeholders, and by the chief executive officer of a municipality.

- The requirement of *N.J.S.A. 10:4-14* that a public body maintain "reasonably comprehensible minutes of all its meetings" is overly broad and lends itself to widespread interpretation. It must be made more specific.

- Contracts awarded by authorities must contain a provision whereby all officers, employees and agents of vendors, whether located in or out of state, consent to accepting service of subpoenas issued by the state or any of its subdivisions for the production of books and records and for providing sworn testimony.

- The terms of commissioners of all county and municipal authorities should be no more than three years and no commissioner should serve more than two consecutive terms.

- The Department of the Treasury should maintain a master list of real estate appraisers from lists of approved appraisers compiled by the New Jersey Turnpike Authority, the Department of Transportation or the Department of Environmental Protection Green Acres Program, from which list other agencies may draw to compile their own lists. All authorities should be required to utilize only those appraisers included on the master list.

- Political fund-raising activities should be banned at all authorities. The ban should extend to the authorities' vendors and consultants.

- This investigation highlights once again the recurring obstacle faced by the Commission in attempting to conduct a full and complete investigation when persons or documents lie beyond its jurisdiction in other states. Appropriate statutes should be amended to enable the Commission to obtain documents and the testimony of witnesses located outside New Jersey.

* * *

The Commission's report on the BCUA, although perhaps the most extensive one, was not the first critical expose of the Authority's activities. The BCUA has been the subject of a history of reported problems. As a result of this history and following the Commission's critical report, the Bergen County Executive has proposed the dissolution of the BCUA.

Local Government Corruption

Local government corruption is one of the continuing dilemmas which afflict our society. This fact prompted the Commission to hold public hearings on the subject on January 7 and 8, 1992, and issue a report in September, 1992. With enhanced understanding of the problem provided by the hearings and report, the Commission intends to launch continuing attacks against

local government corruption and the conditions which sustain and encourage it.

Although local corruption in New Jersey may no longer be as open and systematic as in the past, it remains a serious problem, as is evident from the volume of prosecutions brought in the last few years by federal, state and county prosecutors. Government corruption leads to widespread public cynicism and skepticism toward all public officials, most of whom perform their jobs honestly. Embezzlers steal taxpayer dollars. Corrupt inspectors jeopardize the public's health, safety and well-being. Purchasing scams deplete local treasuries. Zoning and planning payoffs lead to helter-skelter development. Ripoffs in social benefit programs deprive the truly needy of scarce public assistance funds. Finally, private businesses that bribe corrupt officials are unjustly enriched at the expense of honest competitors.

The 1992 report discusses in detail certain cases encompassing various categories of local government corruption, which witnesses described during the public hearing. It reveals how those schemes began, continued and finally unravelled. The report briefly describes the history of local government corruption in New Jersey, from the era of boss Frank Hague in Jersey City through the early 1980s. It also notes this Commission's efforts since its creation in 1969 to expose local corruption. The report also summarizes virtually all other convictions and indictments involving those categories throughout New Jersey over the past few years. Recommendations assess whether there are gaps in laws and enforcement methods as well as a lack of public resolve to diminish local government corruption. Ultimately, however, it has to be hoped that society will begin to regard corruption as it has drunk driving — as a scourge with

which we should not have to live.

The report cites three troubling examples where organized crime capitalized on the presence of local corruption. It also highlights a number of different types of schemes involving tainted land use decisions, corrupted inspections, purchasing scams in several industries, hiring abuses, manipulation of numerous social benefit programs, a multitude of embezzlements of government funds and incessant misuses of government property and services.

One witness at the public hearing, United States Attorney Michael Chertoff, recommended realigning investigative resources and improving remedies and methods of detection. He also urged the Commission to "get to the hard questions of how we eliminate the conditions that seem to promote public corruption in this state." Mr. Chertoff described law enforcers today as being "like firefighters" coming on the scene where "the fire has already been set." The Commission agrees that the critical question is how to change government systems so as to deter corruption or detect it when it does occur.

The Commission made recommendations, which, if enacted, will help protect the public and save substantial tax dollars. These measures should also help to restore public confidence in the integrity of local government. Some of the recommendations are listed below.

Inspectors General — Offices of Inspector General (IG) should be created by statute in those departments responsible for the distribution and oversight of large amounts of public funds which

are expended at the local level. The Commission agrees with Attorney General Robert Del Tufo's call for the statutory creation of such offices in six departments: Education, Human Services, Transportation, Community Affairs, Treasury and Health. Presently, the Department of Transportation has an Inspector General appointed by and responsible solely to the Commissioner of Transportation.

Each IG should have a measure of independence and report to the Attorney General, as well as to his department head. This would facilitate the referral of criminal matters for prosecution. The implementing legislation should mandate the selection of IGs without regard to political affiliation. They should also be qualified by education, experience and professional certification in the fields of accounting, auditing, financial analysis, law, management analysis, public administration, investigation or criminal justice administration.

Electronic Surveillance — Electronic surveillance has often provided definitive evidence for successful prosecutions of official corruption. Attorney General Del Tufo called for amendments to the state's Electronic Surveillance Act to bring modern methods of communication, such as facsimile machines, beepers, computers and the like, within its purview. The Commission agreed that the technological gaps in the law should be plugged and a bill to accomplish this was signed into law on January 28, 1993.

The Commission further believes that electronic surveillance is so crucial in the investigation of corruption and other serious offenses that the law authorizing it should be made

permanent rather than having to be renewed every five years as is now the case.

Civil Remedies — The Commission also agrees with Attorney General Del Tufo's call for codification of civil remedies not already provided by statute. The Attorney General and county prosecutors should be allowed by statute to sue corrupt public officials and their confederates in the private sector to recover all public funds lost and any gain acquired as a result of their wrongdoing. Such remedies are particularly necessary because criminal cases often focus on the corrupt public officials and extend considerable leniency to cooperating private individuals with whom the officials dealt. In some situations the private individuals may be shake-down victims, but more often they are willing participants in schemes to circumvent the law.

Giving clear statutory standing to the Attorney General and the county prosecutors to pursue comprehensive civil litigation on behalf of government entities affected by corruption would help local government units that lack the resources or the will to pursue such litigation. Such standing should also be given clearly, by statute, to those local entities that do choose to seek remedies on their own behalf or in conjunction with the Attorney General or a county prosecutor.

Debarments — Executive Order 34, issued in March 1976, by then-Governor Brendan Byrne, authorizes debarment from state business of vendors who lack "responsibility," including those convicted of criminal offenses. Executive Order 34 addressed a legitimate need in a logical fashion. Unfortunately, over time and with the growth in size and complexity of state

government, Executive Order 34 has evolved into a complicated mismanaged system.

Statutory codification of the essential elements of Executive Order 34 is long overdue. The new law should also incorporate the salient provisions of *N.J.S.A. 2C:51-2e*, which bars those persons or businesses convicted of bribery in official and political matters from doing business with any governmental entity in the state. Meanwhile, the law should give effect to the State's debarments, suspensions and disqualifications at the local government level.

Public Office or Employment Ineligibility Upon Conviction — *N.J.S.A. 2C:51-2a* provides for the forfeiture of public office or employment by those convicted of offenses involving dishonesty or offenses involving or touching their public office or employment. Those convicted of any crime of the third degree or above also forfeit their public office or employment. Subsection c of the statute adds that those convicted of offenses involving or touching on their public office or employment "shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions." However, the statute provides that forfeiture of office takes effect at the time an official pleads guilty or is convicted, only "if the court so orders," or "upon sentencing unless the court, for good cause shown, orders a stay" of the forfeiture. The Commission believes that public office and employment forfeitures should automatically take place at the time of a finding of guilt, and the law should be amended accordingly.

Pension Standards — Standards for denial of public pensions to wrongdoers should be reviewed

by the Legislature. In a 4-3 decision a decade ago, the New Jersey Supreme Court held that in determining whether a public employee's job-related misconduct results in total forfeiture of all pension benefits a pension board must balance at least 11 factors to determine whether forfeiture is justified. The dissenting justices concluded that misconduct in office involving dishonorable service should result in a forfeiture of vested pension rights, brooking none of the flexibility and "application of equitable considerations" called for by the majority. The Court majority emphasized that "pension entitlement is in the legislative domain and that the subject is one which can be most appropriately addressed by the Legislature." The Commission believes that public officials and employees should clearly understand that dishonorable service may result in a substantial loss of pension rights.

Reduce PTI for Breaches of the Public Trust — In New Jersey some offenders may gain admission into the Pretrial Intervention (PTI) program, receive probation, be accepted into the courts' Intensive Supervision Program, participate in work release (spending evenings and weekends in jail), remain free while reporting to a weekend work program or enjoy early parole. Regardless of their utility, in combination these procedures have seriously undermined the risk of incarceration as a deterrent to official corruption.

The increasing use of PTI in cases involving breach of the public trust is particularly disturbing to the Commission. PTI has allowed too many such transgressors to escape serious sanctions for their conduct. This has been especially apparent where conditions of PTI admission, such as restitution or disqualification from holding public office in the future, have

not been imposed. When combined with the eventual outcome of expungement of criminal records, PTI sends the undesirable message that official corruption is a minor concern.

The Commission recognizes that PTI may seem attractive to a prosecutor where a case is weak. Nonetheless, we have the firm impression, after observing a number of cases, that prosecutors too readily have consented to some PTI admissions or agreed not to appeal them. The public could conclude regrettably that in too many instances a defendant's status or a prosecutor's tolerance has led to preferential or indulgent consequences.

Other recommendations are detailed in the Commission's 1992 report entitled "Local Government Corruption."

NJT's Bus Subsidy Program

In October, 1991, this Commission received an anonymous letter containing allegations about New Jersey Transit Corporation's Bus Subsidy Program. An intensive, nine-month expedited investigation uncovered evidence of several million dollars worth of fraud in the relatively small \$5 million program, and the matter was referred to the Attorney General.

Opening two days of public hearings on July 22, 1992, Commission Chairman James R. Zazzali said:

We have found ... that the family that controlled two of these [subsidized] bus companies - Monmouth Bus Lines of Asbury Park and Middlesex Metro of East Brunswick - padded the payrolls of both with family members and others who did not work. Some of these people didn't even know their names were on the payrolls, and checks issued in their names were endorsed and cashed by others.

Various personal or household expenses were bought for family members, yet charged to the bus companies. These included home additions, garage door openers, decks, appliances and many other such items. Vendors were instructed to bill the bus companies for the purchases. The family maid was also paid with public funds.

Used NJT vehicles such as buses and cars were sold by one bus company as the agent for NJT, which kept inadequate records of how many or which vehicles were sold. Vehicles intended to be resold were appraised as salvage, some vehicles were stripped for parts before sale and the parts sold separately, some relatively new vehicles in good condition were sold as junkers. And there is a litany of other irregularities that took place...

And at the conclusion of the public hearings, Chairman Zazzali said, "The scheme was not all that complicated. Take one greedy family, add some gullible, inattentive managers, and it was pretty easy pickings."

* * *

By most accounts, NJT has been reasonably successful in providing moderately priced transportation, acquiring and maintaining modern equipment and expanding to meet the changing needs of commuters. And aside from the ethical problems of a former executive director, the agency has been free from scandal since its creation. It was all the more remarkable, therefore,

that NJT failed for years to uncover a major abuse of funds in the Bus Subsidy Program, a small part of its total \$700 million operation. Not only did the agency fail to detect the abuse on its own, but when it received unsolicited information from outsiders it failed to follow up and, even worse, endangered the safety of one of those sources.

The Bus Subsidy Program is the remnant of a program begun in the 1970s which at one time subsidized as many as 25 carriers. At the time of the investigation, however, it provided a total of \$5 million to just five bus companies; Middlesex Metro and Monmouth Bus together were receiving approximately 80 percent of these funds. Because the five companies were subsidized to the extent of their losses, NJT's audits were important because they were used to determine the amount and validity of subsidies to these carriers. During the Commission's public hearing, Commissioner William T. Cahill, Jr., repeatedly questioned the wisdom of such subsidies, saying the system seems to "reward mismanagement."

In 1986, NJT began its Contracting Out Program, another program under which other carriers bid to provide bus service on certain routes in various areas of the state. These carriers also receive aid but are not subsidized to the extent of their losses as those in the Bus Subsidy Program. Under all the aid programs, many bus companies in New Jersey, including those in the Bus Subsidy Program and the Contracting Out Program, get assistance in the form of buses, support vehicles, computers and other equipment. These various forms of assistance are financed by both the federal and state governments.

All the bus assistance programs are administered by NJT's Department of Private Carrier Affairs, headed during the period under investigation by Deputy Assistant Executive Director Ronald L. Reisner. Reisner reported to Albert R. Hasbrouck, III, Assistant Executive Director in charge of Corporate Affairs. Both men are attorneys. Lisa DeGrace, the bus contract administrator, worked directly under Reisner and was the day-to-day contact with the bus companies. (Since the Commission's investigation, Reisner and DeGrace have resigned; Hasbrouck has been demoted and some of his responsibilities have been reduced. Michael Fucilli, the Director of Internal Audit, was terminated.)

* * *

The anonymous handwritten letter that prompted the Commission's investigation contained allegations of financial misconduct involving state subsidy monies on the part of Monmouth Bus and Middlesex Metro, two companies controlled by 73-year-old Howard P. Farrelly of Dover Township, Ocean County. A copy of the letter had been addressed to the State Department of Transportation, as well as to other parties. The Commission does not know whether NJT ever received a copy although the investigation revealed that the agency did receive several other communications containing similar information.

The allegations in the letter included: Payroll padding by putting Farrelly family relatives on the payroll as no-show employees; personal expenses of the Farrellys, including the cost of a housekeeper, being paid by the companies under the guise of business expenses; limousine trips

to Atlantic City casinos on weekends, and high living generally. Since inflated business expenses were reflected as increased losses, and because the two Farrelly companies were subsidized by NJT to the extent of their losses, the taxpayers of New Jersey were paying the cost of the alleged financial misconduct.

In its investigation, the Commission went beyond the allegations in the anonymous letter. It subpoenaed 33 witnesses to testify in executive session, 23 of whom testified in the public hearing. It issued 97 subpoenas for documents from NJT, Middlesex Metro and Monmouth Bus Lines and the three other subsidized companies, as well as from dozens of vendors and others with whom the two Farrelly companies did business.

The investigation was hampered because the bus companies routinely destroyed records older than three years, with the knowledge and approval of NJT officials. Despite this handicap, the investigation verified the accuracy of most of the allegations and developed additional information impugning some of NJT's operating procedures. The Commission also determined that some of the misconduct had been going on since 1979.

* * *

At the request of this Commission, NJT provided a summary of action it has taken since the public hearing to remedy the problems found during the investigation. The agency's response is reprinted here verbatim.

NJ TRANSIT
SUMMARY OF MAJOR PRIVATE CARRIER
ACTIVITIES

August, 1992 through February, 1993

- *Terminated all contractual relationships with:
— Monmouth Bus Lines, Inc.
— Middlesex Metro, Inc.*

- *Entered into two short term operating agreements (90 days) for the operation of Monmouth County service (Jersey Shore Transportation) and Middlesex County service (Suburban Management Corp.) to facilitate the termination of contractual relations with Monmouth Bus Lines, Inc. and Middlesex Metro, Inc.*

- *Terminated employment of the Director of Internal Audit [Michael Fucilli].*

- *As directed by the Audit Committee of the Board, Coopers and Lybrand (a major independent accounting firm) conducted a review of the Internal Audit Department's procedures, organizational structure and staff skill levels and a new Auditor General was hired to head the Internal Audit Department.*

- *As directed by Executive Director and led by the Chief Financial Officer, an internal investigation of the Private Carrier Affairs group was completed and reported to the Board of Directors.*

- *Accepted resignation of Senior Director of Private Carrier Affairs [Ronald Reisner].*

- *Reduced the responsibilities of the AED - Corporate Affairs [Albert Hasbrouck¹]*

- *The Private Carrier Affairs group was placed under the director of the Deputy Chief Financial Officer with reporting responsibility directly to the Executive Director. Weekly status reporting was instituted by the Executive Director.*

- *Revised the Request for Proposal (RFP) documentation and RFP evaluation process to ensure that the only carriers considered for award of competitively bid contracts are*

¹Hasbrouck is no longer an Assistant Executive Director and has been removed as a member of NJT's executive management team; he is now Senior Director of Corporate Affairs. Additionally, a quality control unit which formerly reported to Hasbrouck has been disbanded and its functions redistributed within the agency.

the carriers meeting minimum technical qualification requirements.

- *Implemented an RFP evaluation process that utilizes staff expertise in Scheduling and Planning, Maintenance and Quality Assurance, Finance, Operations and MBE/WBE [Minority Business Enterprise/Women Business Enterprise.]*
- *Developed maintenance standards and NJ TRANSIT quality control program, including periodic site reviews by NJ TRANSIT Quality Assurance inspectors.*
- *Revised the revenue collection process to assure tighter control over NJ TRANSIT revenue and timely deposit of funds.*
- *Revised contract terms to clarify contractors' responsibilities and NJ TRANSIT compliance oversight.*
- *Identified incomplete compliance documentation (i.e., evidence of insurance, vehicle registration, etc.) and obtained sufficient documentation or reclaimed the vehicle.*
- *As of January 2, 1993, the Bus Subsidy Program has been eliminated. Entered into contractual relationship based on fixed price competitive proposals for the following service areas:*
 - Monmouth County (TCT Transit Services)*
 - Plainfield & Middlesex County (Central Jersey Transit)*
 - Warren County (Delaware River Coaches)*
 - Salem County (Salem County Community Transit)*
- *Instituted regular Private Carrier Advisory Committee meetings between the Executive Director, NJ TRANSIT staff and private carriers.*
- *Implemented a Bus retirement program which requires the return of all buses to NJ TRANSIT for auction.*
- *Implemented PCCIP equipment retirement program which requires the return of all non-revenue vehicles and/or equipment to NJ TRANSIT for auction.*
- *Initiated an annual bus, non-revenue vehicle and equipment certification process which requires an executive of the carrier to certify to the continued use and existence of all assets provided through NJ TRANSIT programs and provides a basis for site examinations.*
- *After applying the new NJ TRANSIT maintenance and quality standards and providing a reasonable period for correction, terminated the contract for service with County Bus Lines, Inc. in Bergen County.*
- *Instituted a review of the PCCIP for the purpose of combining the PCCIP with the*

Bus Allocation Program to simplify both programs and to closely tie the federal funds received for the private carrier Section 15 statistics to the benefits they get from NJ TRANSIT.

- *Began an investigation into the Elderly & Handicapped (E&H) program for the purpose of verifying amounts paid to private carriers and relating this figure to the current number of E&H passengers they are carrying.*

- *Assumed responsibility for the continued operations of certain Hudson County local and interstate routes operated by Hudson Bus Company and/or affiliates due to their petition to the DOT to discontinue service. Conducted an RFP process and will select a carrier to operate service under a three year contract.*

In the opinion of the Commission, NJT moved aggressively to correct its problems and even anticipated most of the Commission's potential recommendations.

Several other problems remain to be addressed. The most significant is the manner in which NJT's Department of Private Carrier Affairs dealt with the three anonymous warnings of irregularities at the Farrelly bus companies. In his testimony, Assistant Executive Director Hasbrouck admitted that there was no established procedure for dealing with allegations of misconduct, anonymous or otherwise, that might be received by the agency. The Commission believes that, in the absence of such procedures, simply forwarding complaining letters to internal auditors, whether competent or not, is clearly insufficient. And forwarding or reporting the allegations to their subject is absolutely intolerable.

Moreover, the letter that prompted this Commission's investigation was a copy of one purported to have been sent to the Department of Transportation, the Attorney General and elsewhere. While the Commission could not establish whether those other copies were in fact sent or received, it is important to emphasize that any agency of government receiving allegations

of criminality has an obligation to bring them to the attention of law enforcement officials. Key officials in all state agencies must be made aware of these obligations.

Such notification would not necessarily preclude internal audit or other investigative steps, especially in a department such as Transportation, which is the only agency of state government having an inspector general at this time. The point is that serious allegations must be pursued seriously. Contrary to the professed belief of at least some NJT officials, anonymous allegations are not necessarily less worthy of attention than those made by someone who signs his name.

On another matter, this Commission believes that NJT and other state agencies that finance capital assistance as part of a government contract should recoup some of their investment in the event of cancellation of such contracts. In this case, NJT has a beneficial interest in all of the equipment at Farrelly's two bus companies and has also paid for improvements to the two garages used by the companies. In addition to obtaining title to all its equipment NJT should also attempt to recover the value of those improvements.

* * *

The Commission believes that its investigation of NJT's Bus Subsidy Program revealed an aberration in what is an otherwise well-run organization. That such an aberration could exist there, however, should serve as a warning to executives in all public and quasi-public entities: Bureaucratic complacency can invite fraud and abuse. Managers at all levels of government

should take careful heed.

Organized Crime in Bars

When the Commission began an inquiry into organized crime control of bars and restaurants in New Jersey, it had no evidence that such control was widespread and did not develop such data during its investigation. But what control did exist was blatant, with the State and its municipalities doing little to enforce fundamental policies established by the Legislature in 1933 and restated in 1985. Those policies explicitly prohibit organized crime involvement in the alcoholic beverage industry. So great was this enforcement failure that one city, Hoboken, twice renewed the liquor license of an establishment after it had been exposed in a widely publicized federal trial as a meeting place and headquarters for a powerful faction of the Genovese crime family in New Jersey.

The Commission held a public hearing on February 18 and 19, 1992, during which it called as witnesses the owners of several bars and restaurants with organized crime ownership or control. Most invoked their Fifth Amendment right not to incriminate themselves and refused to answer questions. The Commission also called several organized crime members and associates who chose to remain silent. These appearances, however, were followed by the testimony of Commission special agents, who provided the information that was not forthcoming from the other witnesses.

To buttress the agents' testimony, two former organized crime figures, including Thomas Del Giorno, a former capo (captain) in the Bruno/Scarfo crime family, provided first-hand information about licensed beverage establishments owned or operated by the mob in southern New Jersey and Philadelphia. The other witness, who was identified only as a former Bruno/Scarfo associate, testified about licensed locations in northern New Jersey.

Del Giorno was asked by Commission Counsel Ileana N. Saros why organized crime figures want to own bars or restaurants, places that might not seem like sources of particularly lucrative income. He said bars or restaurants are often used as vehicles for laundering money from illegal activities such as gambling, loansharking or narcotics trafficking. He also said they are used simply as meeting places and headquarters for organized crime groups or leaders.

Because it is not illegal for an organized crime figure to own a business so long as that enterprise operates within the law, many mobsters own businesses openly and law enforcement normally cannot touch them. But a liquor license is a privilege granted under specific conditions requiring, among other things, a threshold of integrity and freedom from criminal associations. Government has an affirmative obligation not to grant liquor licenses to persons who do not meet the statutory criteria. Agencies that ignore this obligation are not complying with the law and do a disservice to society.

Although municipal police normally conduct background investigations on applicants for liquor licenses, some municipal officials have argued that their police are too busy with street

crime and other public safety matters to pay attention to who owns licensed beverage establishments in their towns. And besides, they ask, who cares whether or not a mobster owns a local bar? The argument is a specious one. The Commission firmly believes that any effort against organized crime, which is responsible for much of the drug trafficking in our society, ultimately will have an impact on street crime.

Attacking organized crime through the regulatory process is but one of many methods that can be employed in the constant battle against this public menace. It proved successful in Atlantic City with the creation in 1977 of the Joint Task Force by which the State ABC, with the assistance of the county prosecutor's office and the State Police, took over from municipal officials the authority to investigate applications for liquor licenses before approval by the city. Although organized crime has been in Atlantic City for years, as it has been in most of the state's urban areas, the Joint Task Force has kept it out of the liquor business there simply by vigorous and thorough investigations of the backgrounds of applicants for licensure.

* * *

At its February public hearing, the Commission staff released data regarding more than 20 licensed premises that were controlled either openly by organized crime figures or covertly by undisclosed owners who should have been disqualified from licensure either because of their organized crime connections or their criminal records. A report issued in October, 1992, covered not only those establishments but also some not previously mentioned. Obviously, there are yet

more bars reputed to be controlled by organized crime but which the Commission staff could not investigate because of limitations of time and resources.

Three of the establishments cited in the Commission's final report were Memories in Margate, Medford Village Resort and Country Club in Medford Township and The Anchorage in Somers Point. All were alleged to have been associated in one way or another with persons reputed to be members or associates of the Bruno/Scarfo organized crime family. Despite these findings, and despite the fact that the Commission staff forwarded information regarding these licensees to the respective municipalities, liquor licensees for all three have been renewed by municipal governing bodies. Medford Township acted in disregard of its own police department's recommendation.

The Commission is acutely aware of the financial importance to the state government of the alcoholic beverage industry, which is responsible for tax revenues of more than \$1 billion per year. Moreover, the industry generates untold millions more in the state's economy. Nevertheless, because of the early history of the industry, the Division of Alcoholic Beverage Control was given a statutory mandate to keep organized crime out of bars, restaurants and other licensed premises, as well as other segments of the industry. In this regard, the Division has very much the same admonition from the Legislature as do casino regulators, and for the same historical reasons.

Since organized crime has been a major public issue in New Jersey for nearly three

decades, it seems self-evident that regulatory officials should by now be sensitized to the issue. They should be vigilant while maintaining a sense of perspective and fairness. However, because the Division does not distinguish cases involving organized crime from other cases, the Commission believes that it may not take as seriously as it should its mandate to keep organized crime at bay. It sometimes deals with mobsters in the same way in which it deals with minor regulatory violations. It does not give greater weight to cases that might involve organized crime, such as matters involving hidden interests or those involving unqualified persons working in licensed premises. It is too quick to lift disqualifications to allow such employment. And when it does impose penalties, they are too light to have much deterrent effect.

* * *

As a result of its investigation, the Commission made the following recommendations:

- In an Interim Report issued in March, 1992, this Commission found severe shortcomings in the manner in which many municipalities performed background investigations of applicants for licensure. It was for this reason that the Commission recommended that "the Governor and the Legislature should consider eliminating all local authority to pass on the fitness of applicants, leaving municipalities to pass on purely local related issues, such as zoning." Background investigations should be done by state investigators and licenses could be granted only with state approval. Of course, this presupposes that the enforcement and investigatory functions at the state level are fully funded.

Some industries in New Jersey such as casinos, insurance companies, public utilities and others are required by statute to pay certain costs associated with the cost of their own regulation by the state. The casino industry, for instance, pays the entire cost of the state regulatory system, including the cost of investigating the backgrounds of applicants for licensure. The utility industry pays the cost of state rate counsel in the Department of the Public Advocate, which represents the public in rate proceedings before the Board of Regulatory Commissioners. And insurance rating organizations pay the Public Advocate's costs associated with rate increase applications before the Commissioner of Insurance.

In its Interim Report, the Commission recommended that individual licensees pay the cost of appeals of contested disciplinary proceedings as well as higher fees in order to provide a broader revenue base for the Division. However, the Commission went beyond that in its final report and recommended that the state should follow the pattern established in other regulated industries and assess to the liquor industry the entire cost of the ABC Enforcement Bureau, and perhaps other units of the Division as well. If state government is serious about keeping organized crime out of the alcoholic beverage industry, it must find a way to police the industry effectively. It cannot simply give up on this vital area of enforcement.

- The Commission believes that the Division of ABC should provide for presumptive minimum penalties such as license suspensions for those regulatory offenses most likely to hide organized crime involvement in the industry. Deviations from the presumptive penalties, such as fines in lieu of suspensions, should be permitted only with an explanatory statement from the

Division Director.

Two areas the Commission staff has identified as being used continuously to hide organized crime involvement in licensed premises are those involving hidden interests in businesses and failure to maintain true books and records. Inadequate or phony books are often used to hide undisclosed interests. The Commission reviewed the records submitted by licensees under investigation and found many serious deficiencies. To the extent that the Division relies on such records to calculate fines, it is being deceived and shortchanged.

- The Commission believes the Division similarly should impose a minimum period of suspension for persons with criminal records or associations who desire to be employed in licensed beverage establishments. And it should develop criteria for lifting disqualifications.

- Regulations should be amended so that licensees whose misconduct has caused others to be cited for violations are subject to disciplinary action themselves.

- Licensees should be subject to discipline, perhaps even to the extent of license revocation, when they invoke their Fifth Amendment privilege in response to questions about matters affecting their suitability for licensure.

- The Attorney General should require county prosecutors to notify the Division of all cases involving gambling and narcotics activity in licensed premises so that appropriate

administrative penalties may be imposed on the licensees.

- The Division must establish a follow-up inspection procedure to make sure that licensees take appropriate corrective action after there has been a finding of administrative violations.

Motor Fuel Tax Evasion

In February, 1992, the Commission issued a report on the problem of motor fuel tax evasion. A public hearing had been held in October, 1991.

Motor fuel tax evasion is a nationwide problem that costs state and federal governments more than one billion dollars annually. In New Jersey alone motor fuel tax evasion was responsible for an estimated \$40 million annual loss to the state at the time of the hearing.

In addition to harming government and the public through lost tax revenues, motor fuel tax evasion harms honest merchants who cannot compete in a marketplace where tax evaders sell fuel well below the legitimate cost. Motor fuel tax evasion also costs states a loss of federal highway funds which are distributed to the states based upon collections of federal motor fuel taxes.

In New Jersey, tax evasion on diesel fuel is the most significant problem. Diesel and

home heating oil are both No. 2 fuel oil and essentially the same product, although diesel may contain additives to improve its burning quality in an engine. Because it is used to propel vehicles on the highways, diesel is generally taxable as a motor fuel while No. 2 fuel oil that is used as home heating oil is not.

The typical scam for the tax evader is to buy No. 2 fuel oil and sell it as diesel with some mark-up for taxes but without remitting those taxes to the state or federal government. Often this scam is accomplished by the creation of a convoluted paper trail that includes dummy companies which cease operating before authorities are even aware that a crime has been committed. These firms usually issue invoices to purchasers of diesel fuel that are marked "all taxes included," regardless of whether or not a single penny of tax has, in fact, been remitted. Another more traditional method of fuel tax evasion is simply the substitution of non-taxable home heating oil for taxable diesel.

Fuel tax evasion creates lucrative opportunities for illicit gain due to relatively high combined state and federal taxes. In New Jersey, the total tax on diesel fuel is 37.6 cents per gallon.

The Commission discovered the motor fuel tax problem during its check cashing investigation in 1986-1988 when it discovered that fuel companies were among those cashing their receivables at check cashers. In some instances those fuel companies could not be located. Subsequent inquiry during the Commission's garment investigation in 1988-1990 revealed that

many of the companies were no longer in business or had changed names. Inquiries of the Division of Taxation elicited information about growing problems with motor fuel tax evasion. In January, 1991, the Commission began to examine in earnest the subject of motor fuel tax evasion in New Jersey. The investigation revealed that many of those involved in the schemes were immigrants from what was formerly the Soviet Union. New York authorities who had prosecuted some violators found a similar situation but learned also that four of the five traditional organized crime families from the metropolitan area had managed to get a share of the schemes.

Following the Commission's public hearing and the issuance of its report in February, 1992, the Legislature and the Governor responded quickly and enacted a substantial reform of the state's motor fuel tax law. The new law redefines taxable fuel, clarifies other ambiguities, specifies that the tax is to be collected when fuel is sold to retailers, provides for licensing and bonding of dealers and requires total accountability for all fuel transactions. A separate appropriations bill provided funds to finance increased enforcement.

Since the Commission's 1992 report, there have been numerous prosecutions of the kind discussed in the report. One of particular interest to New Jersey was a federal sting operation by the FBI and the IRS in which resulted in indictments naming as defendants several traditional organized crime figures and Russian emigré mobsters. The "fuel company" used by the federal agencies was one of those whose records were subpoenaed by the Commission during its own investigation. Service of this subpoena caused the federal government to ask the Commission

staff to back away and the Commission did not pursue the matter.

Additionally, Commission surveillances of fuel truckers, with the assistance of the Middlesex County Prosecutor's office, led directly to tax evasion indictments in the Commonwealth of Virginia and federal indictments in New Jersey involving currency transaction report violations.

II

PRIOR YEARS' ACTIVITIES

The following list summarizes the SCI's investigations, hearings and reports since the Commission began operations in 1969:

1969-72 Garbage Industry

The SCI recommended licensing members of the garbage collection industry. The Legislature enacted a law providing for licensing and regulating of the garbage industry by the State Public Utilities Commission, later the State Board of Public Utilities (BPU).

1970 Monmouth County Prosecutor's Office (Misuse of Funds)

The SCI recommended that all counties be served by full-time prosecutors. This proposal was gradually implemented, to the point where by 1986 all counties had full time prosecutors. The SCI recommendation that supervisory regulation of prosecutors be centered in the Attorney General's department was implemented.

1970-71 Organized Crime Control of Long Branch

The SCI referred to the U.S. Attorney for New Jersey its findings, data and fiscal records relating to corporations formed by Anthony (Little Pussy) Russo. These materials were in part the basis for a 1971 indictment of Russo for failure to file corporate income tax returns. Russo pleaded guilty to that charge and was sentenced to three years in jail, to run concurrently with a New Jersey

court sentence for perjury. (Russo subsequently was murdered).

Additionally, a police chief whose conduct was targeted by the SCI's probe resigned from office and Long Branch voters at the next municipal election following the public hearing elected a new administration.

1970-71 Corrupt State Purchasing Practices

A state buyer who was receiving payoffs from vendors was dismissed. SCI records were turned over to the Attorney General's office, which obtained an indictment charging the buyer with misconduct in office. He pleaded guilty, was fined and placed on probation.

Additionally, officials of the State Division of Purchase and Property, who assisted in the investigation, revised purchasing and bidding procedures to deter rigging of bids, renewal of contracts without bids, and acceptance of unsatisfactory performance and supplies.

1971-77 Building Service Industry Abuses

The Commission's investigation of restraints-of-trade and other abusive practices in the building service industry aroused the interest of the United States Senate Commerce Committee. The committee invited the SCI to testify at its 1972 public hearings on organized crime in interstate commerce. As a result of that testimony, the Antitrust Divi-

sion of the United States Justice Department, with assistance from the SCI, began an investigation into an association which allocated territories and customers to various member building service maintenance companies in New Jersey. In May, 1974, a Federal Grand Jury indicted 12 companies and 17 officials for conspiring to shut out competition in the industry. The companies were the same as those involved in the SCI's public hearings. On Oct. 25, 1977, the defendants agreed to a consent judgment to abandon the practices alleged against them. Earlier, the government's criminal action against the defendants was completed in March, 1976, by which time one company had pleaded guilty to the charges, the other defendants pleaded no contest. Fines totaling \$233,000 were levied.

Additionally, after the Senate Commerce Committee's hearings, the U.S. General Services Administration amended its regulations to bar purchases of certain cleansing products sold by organized crime figures (as exposed by the SCI investigation).

1971-72 Hudson County Mosquito Commission Embezzlements

After the SCI probe, the Mosquito Commission was abolished, resulting in an annual county budget reduction of \$500,000.

After the SCI referred its findings to the Hudson County Prosecutor, a County Grand Jury in 1971 handed up conspiracy and embezzlement indictments against the Mosquito Commission's executive director, his two sons, his secretary and the Commission's engineer and foreman. The executive director pleaded guilty to embezzlement in 1972 and was sentenced to two-to-four years in jail. His sons were fined \$1,000 each and placed on four-year probation. The other

indictments were dismissed.

1971-72 Point Breeze Development Frauds, Jersey City

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

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

1972 Stockton College Land Acquisition Deals

The State Division of Purchase and Property implemented SCI recommendations for tighter controls over land acquisitions and evaluations, including pre-qualification of appraisers and post-appraisal reviews by nationally accredited appraisers.

1972-75 Improper Municipal Planning, Zoning Procedures

The SCI cancelled scheduled public hearings after a one-day session because litigation prevented three key witnesses from testifying about land developments in Madison Township in Middlesex County. Although the courts subsequently ruled the witnesses must testify, the Middlesex Prosecutor in the meantime had requested the SCI to postpone its hearings and submit its inves-

tigative data for prosecutorial use. In early 1974 the Middlesex Grand Jury indicted three former Madison Township officials for extortion, bribery, misconduct in office and perjury in connection with housing development kickback schemes. In February, 1975, a former Township councilman was found guilty of extortion and misconduct in office.

1972-73 Bank Fraud in Middlesex County

The SCI cancelled public hearings in this investigation at the request of bank examiners who feared a bank would be forced to close in the face of adverse hearing disclosures. Federal authorities, after receiving the SCI's investigative findings and data, arrested Santo R. Santisi, who had been president of the targeted Middlesex County Bank, on charges of misapplication of more than \$500,000 in bank funds, authorizing bank loans not approved by bank directors to a holding company he controlled and to his associates. He pleaded guilty and was sentenced to three years in prison. A member of the bank's board of directors pleaded guilty and was sentenced to a one-year prison term. Suspended prison sentences were imposed on two others, including Santisi's lawyer, after they also pleaded guilty.

1972-80 Organized Crime in Ocean County

SCI records were made available to federal authorities, who subsequently obtained extortion-conspiracy indictments against nine organized crime figures active in the New York-New Jersey region. One was Frank (Funzi) Tieri, then the acting leader of the Genovese organized crime family. The indictments described a shylock loan dispute which culminated in a "sit-down" - organized crime jargon for a star-chamber trial — which was described publicly for the

first time by Herbert Gross, an informant, at the SCI's public hearings. The federal investigation resulted in the conviction in 1980 of Tieri, who by then had risen to "boss-of-bosses" among New York's organized crime families. An SCI agent testified for the prosecution during Tieri's trial.

1973-74 Workers Compensation Frauds

The SCI's investigative findings were referred to the Essex County Prosecutor, who in 1975 obtained indictments of two partners of a law firm and the firm's business manager in connection with bill-padding and a phony medical treatment scheme. The indictments charged the defendants with conspiring with certain doctors and others to submit fraudulent reports to insurance companies.

All indictments were dismissed but one, which charged a lawyer-defendant with obtaining money under false pretenses. Essex authorities, after being deputized in Middlesex County, obtained a seven-count indictment from a Middlesex Grand Jury.

In addition, the New York-New Jersey Waterfront Commission enlisted the SCI's assistance in its investigation and exposure of Worker Compensation frauds involving dock workers in 1974-75.

Finally, three New Jersey Judges of Compensation were suspended, one of whom subsequently was dismissed by the Governor and suspended from law practice for six months by the New Jersey Supreme Court.

1973-78 Passaic County Voc-Tec School—Misuse of Funds and US Surplus:

The SCI referred its probe data to the Attor-

ney General's Criminal Justice Division, which in May, 1974, obtained a State Grand Jury indictment charging the school's business manager-purchasing agent with bribery and misconduct in office. The official was convicted of bribery, sentenced to one-to-nine years in prison and fined \$9,000. The conviction was upheld by an appellate court in 1977. In March, 1977, Passaic County Freeholders filed a civil suit against the official, resulting in a court order that he return all salary received while he was suspended from his job as well as the bribe money. In February, 1978, the official agreed under a court-approved settlement to repay the county more than \$50,000 in 60 installments during a five-year period after his release from jail.

1973-74 Narcotics Traffic and Drug Law Enforcement

The SCI identified the victim of a murder and then located three suspects and participated in their arrests. In October, 1974, one of the suspects was convicted of the murder. The other two defendants pleaded guilty to lesser charges and testified for the prosecution. Also, as a result of evidence referred by the SCI to the Essex County Prosecutor, a burglary ring was exposed by the Prosecutor's staff. A Newark jeweler and his son were indicted and convicted of conspiracy and of receiving stolen property. The Essex Grand Jury in 1974 handed up more than 20 indictments against members of the burglary ring.

1974-77 Pseudo-Charitable Firms Misusing Handicapped

The SCI acquainted federal authorities with investigative findings during and after this probe. Subsequently, the owner of one company and the sales manager of another

company, who were targets of the SCI inquiry, pleaded guilty to federal charges of fraud. Both received suspended jail sentences.

Two laws were enacted in 1977 that implemented SCI recommendations. One law required authorization by the Attorney General before a corporation could identify itself as a fund raiser for the handicapped or the "blind." The other statute required professional fund raisers to submit financial reports to the Attorney General.

1974-77 Conflicts of Interest at Delaware River Port Authority

Based on evidence from the SCI probe, the Port Authority claimed more than \$64,000 from its former chairman as repayment of profits his firms made on Authority construction projects. The claim was settled in 1977 for \$50,666. Although the former chairman was absolved of any wrongdoing, he was not reappointed to the Authority.

1974-77 Lindenwold Municipal Corruption

As a result of State Grand Jury indictments in 1975, a former Lindenwold mayor and a real estate developer pleaded guilty to bribery and conspiracy charges as their trial was scheduled to begin. One former councilman was found guilty on three counts and another former councilman was found guilty on two counts at the conclusion of the trial in October, 1977. The SCI's public hearing testimony and investigative findings led to these actions.

1975-77 Investigation of Medicaid Abuses

A number of statutory and regulatory steps were taken during and subsequent to the Commission's investigations, interim reports

and public hearings. These actions included the Legislature's enactment of a New Jersey Clinical Laboratory Improvement Act, as well as a law increasing maximum penalties for bilking the Medicaid program through overbilling and false billing.

Many of the Commission's recommendations were adopted by the Division of Medical Assistance and Health Services as a result of the SCI's clinical laboratory hearings.

1976 Land Acquisition Deals in Middlesex County

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

SCI data was referred to the Middlesex County Prosecutor's office, which investigated the conduct of the County Land Acquisition Department. In September, 1976, a Grand Jury returned a presentment in which it said that while it found "no provable criminal act" by the department's former administrator, his activities "indicated an insufficient expertise and lack of concern to perform his office in the best interest of the citizens." The presentment also criticized

the collection of political contributions from appraisers, "which if not improper under law certainly gave the appearance of impropriety."

1976-77 Prison Furlough Abuses

Following the SCI probe and public hearing, in December, 1976, a State Grand Jury indicted a former Trenton State Prison clerk for false swearing and perjury. These charges related to a forged Superior Court Appellate Division opinion which was inserted into the record of an inmate, Patrick Pizuto, enabling him to obtain a premature release from incarceration. (Pizuto became a federally protected informant in an unrelated case.) In January, 1977, five former inmates of Leesburg Prison were indicted on charges of escape by means of fraudulent furloughs. These indictments led to convictions or guilty pleas.

1977-79 Organized Crime in Atlantic City

The Commission's investigation and public hearing confirmed the infiltration by the organized crime family of Angelo Bruno of Philadelphia into certain legitimate businesses — cigarette vending and nightclubs — after the legalization of casino gambling in Atlantic City. Also revealed were attempts by associates of the Gambino organized crime family to purchase a major Atlantic City hotel and by a New England mobster to intrude into the operation of a casino gambling school. In 1979 the Legislature enacted a law strengthening the licensing requirements for the cigarette industry to proscribe licensure of organized crime members or associates.

1978-79 Boarding Home Abuses

The SCI's public hearings and reports on

this investigation were among a number of public actions by various agencies that led to the enactment of a boarding home reform law. However, this law did not implement a major recommendation of the SCI - that is, to center boarding home licensing and monitoring obligations, which were spread among three departments of government, into one department.

1978 Absentee Ballot Frauds

Many of the SCI's proposed reforms, drafted in cooperation with the Attorney General's office, have been enacted.

1979-80 Injury Leave Practices

Inappropriate deductions of social security and income taxes from wages paid to public employees under various municipal and county injury leave policies were halted and efforts were made to recoup such deductions in the past.

1979-81 Inadequate Sudden Death Investigations

Efforts to reform the county Medical Examiner system were begun. However, none of these proposed revisions includes the SCI's major recommendation that a statewide regional system of medical examiners be established operating with accredited forensic pathologists in conjunction with the Institute of Forensic Science in Newark.

1979-81 Questionable Public Insurance Procedures

The Commission's proposed reforms for the purchase and regulation of county and municipal insurance programs were submitted to the Legislature in bill drafts.

1980-81 Organized Crime Infiltration of Dental Care Plans

Legislation was enacted in 1982-83 incorporating the Commission's recommendations for barring organized crime influence in dental care plans sold to labor unions and for increased auditing, monitoring and financial disclosure for such plans. The SCI was represented by a Commissioner and its Executive Director at a House Aging Committee hearing in 1981 on abuses of health care trust funds and at a public hearing by the Pennsylvania Crime Commission in 1981 on its probe of mob influence over the operation of labor union dental plans.

1981 Mismanagement of the New Jersey HFA

During the course of this investigation, the HFA's executive director, William Johnston, a subject of the inquiry, resigned and a new reform administration was put in place. After the issuance of the SCI's initial report, certain HFA personnel discussed in the report resigned or were dismissed and new procedures for processing housing projects were instituted. The Commission's investigative findings, contained in two public reports, were submitted to various prosecutorial authorities.

1981-82 Organized Crime Incursion into Labor Relations Profiteering at Mass Housing Construction Sites

This report spurred so much interest that copies of it are no longer available, but no action was taken on the SCI's recommendations at either the State or Federal level.

1981 Misconduct in the Operation of Certain County and Local Sewerage Authorities

This probe, hearing and report resulted in

the enactment of a comprehensive law giving the State Local Government Services Division the same effective control over the fiscal and administrative operations of sewerage and other local authorities that it exercises over municipalities.

1982-85 Inappropriate Activities of the Lakewood Municipal Industrial Commission

The report on this inquiry resulted in the enactment in 1984-85 of the SCI's recommendations for reforming the operations of all such local industrial commissions throughout the state.

1983 Abuse and Misuse of Credit Controls at Gambling Casinos

This inquiry, public hearing and report resulted in more effective controls, albeit less stringent than recommended.

1983 Improprieties in the Leasing of State Lands at Great Gorge in Sussex County to a Ski Resort

The public hearing and report were followed by criminal and civil actions based on the SCI's investigative findings which resulted in the reimbursement of millions of dollars owed to the State and in substantial fines and other penalties against the major principals of the Vernon Valley conglomerate and its subsidiary companies.

1983-88 An interim report on the Inadequacy of Laws and Regulations Governing the Boxing Industry

In line with the SCI's recommendations, a law was passed revising the tax structure for boxing events, and another bill revising the entire administration of the sport, including medical and safety provisions, was subse-

quently enacted. Revelation of improprieties by the State Athletic Commissioner led to his resignation. The regulatory reforms, particularly those that were intended to protect the health and physical welfare of boxers, as enacted in 1988, fell far short of the SCI's reform proposals.

1984 Misconduct and inappropriate controls in the Newark school security system

Bills were introduced in the 1986-8 Legislature to implement certain reforms recommended by the SCI report.

1984 Excessive spending that almost led to the insolvency of the Newark Board of Education/Newark Teachers Union Supplemental Fringe Benefits Fund

A report on the investigative findings was incorporated in the Commission's 16th Annual Report. Litigation involving the Fund's director, who was dismissed during the SCI probe, is pending.

1983-85 Organized Crime in Boxing

The SCI's final report confirmed so serious an intrusion of organized crime into boxing that, were the same mob presence to afflict such other professional sports as baseball or football, it would constitute a public scandal. Dissection of a dozen case histories not only reflected the ineffectiveness of the regulatory process in stamping out organized crime but also the inability of the regulators — and managers and promoters as well — to prevent boxers from becoming brain-damaged and blinded. As a result, the SCI joined the American Medical Association and other medical groups in urging that boxing be banned. In the meantime, the SCI proposed a series of further reforms, to reduce the physical hazards of boxing as well

as its organized crime taint. Bills requiring background checks of prospective licensees, including promoters and managers, were enacted in 1986-87. Other "reforms" which were below the standards urged by the SCI also were enacted in 1988 (See 1983-88 interim report on boxing).

1985-86 Probes of N.J. Division of Motor Vehicles

1) Photo license controversy, an investigation directed by the Legislature to be completed in 30 days. The Commission criticized the Division of Motor Vehicles and the Attorney General for the intentional non-disclosure of a major political contributor's proposed role in a universal photo license system.

2) Investigation, public hearing and report on the DMV's politicized, inefficient agency system. The Commission recommended conversion of all motor vehicle agencies to state operated entities as well as internal reforms within the Division to enhance the integrity of the licensing and registrations processes.

3) Investigation of the DMV-Price Waterhouse computer fiasco, which had its origins in the collapse of the DMV's services to the public in mid-1985. This probe resulted in a report critical of DMV's management of the computer project as well as the serious policy misjudgments and professional misconduct by the computer contractor. The report made recommendations for reform of bid waiver procedures.

1986 State Racing Commission's regulatory deficiencies

The SCI's review noted the Racing Commission's reform efforts during the course of its investigation, but emphasized numer-

ous areas — race track security and integrity, regulatory timidity, auditing of track operations, more stringent drugs controls and tighter licensing procedures — that remained to be corrected. A bill incorporating most of the SCI's reform proposals has been passed by the Assembly and is awaiting final legislative action in the Senate.

1986-87 Investigation of Organized Crime-Influenced Contractors on Casino and Publicly Funded Construction Projects

This report was combined with the Commission's annual report for 1986. It recommended centralization and strengthening of state and Casino Control Commission procedures for prequalifying and disqualifying prospective contractors and subcontractors. The investigative findings demonstrated that two mob-operated companies had amassed millions in revenues from casino projects and public works from which they should have been barred. Bills which would extend Control Commission scrutiny to subcontractors and casino license applicants were enacted.

1986-87 Investigation and Report on Impaired and Incompetent physicians

A report on the Commission's investigation on Impaired and Incompetent physicians was issued in October, 1987. The report was critical of the New Jersey Medical Society's Impaired Physicians Program and the inability of the IPP and the State Board of Medical Examiners to adequately rehabilitate and monitor impaired doctors to prevent harm to patients. Legislative action to improve the reporting, rehabilitation and supervision of impaired and incompetent doctors was immediately initiated in the State Senate and the SCI was represented at a legislative committee hearing on the reform proposals.

1986-88 Union Lake

The Commission investigated the process by which the State acquired Union Lake in Cumberland County. The report concluded that the Department of Environmental Protection failed to follow good management and internal communications procedures in taking title to the lake, which is contaminated with arsenic.

1986-88 Check Cashing

The Commission investigated the extent to which the check cashing industry in New Jersey is used by organized crime to finance loansharking and other forms of racketeering as well as to defraud companies. Dozens of referrals of information were made to law enforcement and administrative agencies in New Jersey and New York.

1988-89 Cocaine

The SCI held a public hearing in November, 1988, and issued a written report in March, 1989, regarding the cocaine problem in New Jersey. The Commission recommended a major increase in the state's commitment to help solve all facets of this serious criminal, social and health problem.

1987-89 Solid Waste Regulation

In its first revisitation to a problem already studied, the SCI studied the solid waste problem and the way it is regulated in New Jersey. The Commission concluded that the Solid Waste Utility Control Act of 1970, enacted after the Commission's 1969 report on the garbage industry, had failed as a regulatory mechanism. The Commission found that organized crime, while no longer

dominant, still had a presence in the industry. Moreover, the regulatory system had failed to stimulate competition in an industry that was amenable to it. The Commission recommended transferring responsibilities for garbage collection from the BPU to a new State Solid Waste Authority, which would monitor economic conditions in the industry, ensure fair prices for contracts and even compete, if necessary, to keep prices reasonable.

1990 AIDS Prevention Program — State Department of Health

Allegations of impropriety in the AIDS prevention program in the Department of Health were made at a public hearing of the Assembly Committee on Health and Human Services. The Commission found most of those allegations to be without merit but did find some laxity in the grant review process. The Commission also found a mindset at the Department that virtually no irregularity would be sufficient to cancel a financial grant so long as the avowed purpose of the grant appeared to be served.

1988-90 New Jersey School Boards Association

The Commission found serious deficiencies in the management of the School Boards Association that led to losses of more than \$800,000 in the investment of funds entrusted to the NJSBA Insurance Group by local school districts. The NJSBA has made substantial progress toward reform.

1988-90 Garment Industry

A public hearing on an investigation into the garment industry revealed numerous economic problems in the industry as a whole as well as many instances of workers and con-

tractors being taken advantage of by unscrupulous entrepreneurs. The investigation also revealed the intrusion by organized crime into garment trucking in New Jersey.

1990 Afro-Lineal Organized Crime

In furtherance of its responsibility to keep the public informed about organized crime in the state, the Commission held a one-day public hearing into the problem of organized criminality by persons of African heritage. The hearing dealt with gangs of African-Americans, Jamaicans and others.

1990-91 Video Gambling

The Commission studied the complicated problem of video gambling, including the ramifications of organized crime involvement as well as weaknesses in the statutes that apply to gambling devices.

III

MEMBERS OF THE COMMISSION

1969-1990

Appointed by the Governor

<p>William F. Hyland 1969-1970 <i>Chairman</i></p> <p>John F. McCarthy, Jr. 1970-1973 <i>Chairman</i></p> <p>Joseph H. Rodriguez 1973-1979 <i>Chairman</i></p> <p>Henry S. Patterson, II 1979-1990 <i>Chairman (1985-90)</i></p> <p>Kenneth D. Merin 1990-</p>	<p>Charles L. Bertini 1969-1976</p> <p>Lewis B. Kaden 1976-1981</p> <p>Robert J. DelTufo 1981-1984</p> <p>James R. Zazzali 1984- <i>Chairman (1990-)</i></p>
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Appointed by the President of the Senate

Glen B. Miller, Jr.
1969-1971

Wilfred P. Diana
1971-1973

David G. Lucas
1973-1976

Stewart G. Pollock
1976-1978

Arthur S. Lane
1979-1985
Chairman

Paul Alongi
1985-1987

W. Hunt Dumont
1988-1991

William T. Cahill, Jr.
1991-

Appointed by the Speaker of the General Assembly

Emory J. Kiess
1969

James T. Dowd
1969-1971

Thomas J. Shusted
1971-1972

Thomas R. Farley
1973-1977

Arthur S. Lane
1977-1978

John J. Francis, Jr.
1979-1982

William S. Greenberg
1982-1987

Barry H. Evenchick
1987-

