

# OFFICE OF THE GOVERNOR Criminal Justice Division

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ACQUISITIONS



## AUDIT REPORT

Number 78-33

ATTORNEY GENERAL OF TEXAS

CRIMINAL TASK FORCE FOR ORGANIZED CRIME

Grant #AC-76-D02-4221

Austin, Texas

May 15, 1978

DOLPH BRISCOE  
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52657

TABLE OF CONTENTS

	<u>Page</u>
Executive Summary	
Background . . . . .	1
Scope of Audit . . . . .	3
Financial Audit . . . . .	3
Programmatic Audit . . . . .	4
General Comments . . . . .	5
Programmatic Parameters of the Law and the Grant . . . . .	9
Audit Findings and Conclusions . . . . .	21
Programmatic . . . . .	21
Operational . . . . .	21
Management . . . . .	36
Financial . . . . .	40
Exhibits:	
A. Project Cost . . . . .	42
B. Audit Exceptions (Financial) . . . . .	43
C. Types of Assistance Generally Available, Offered, and Requested from the Task Force . . . . .	53
D. Areas in Which Task Force Generally Provided Assistance to Law Enforcement and Prosecutorial Agencies . . . . .	54
E. Types of Assistance Requested and Received in Specific Cases . . . . .	55

EXECUTIVE SUMMARY OF AUDIT REPORT  
ATTORNEY GENERAL'S CRIMINAL TASK FORCE FOR ORGANIZED CRIME

The Criminal Justice Division (CJD) of the Governor's Office has awarded grants funding the Texas Attorney General's Criminal Task Force for Organized Crime (the Task Force) since February 1, 1973, with the intent that the project would be operated within the scope of the law.

Repeatedly, the Texas Legislature has defined the duties, powers, and responsibilities of the Attorney General as civil in nature, with limited and specific responsibilities in criminal matters. Police powers are vested in the Department of Public Safety (DPS) and in "peace officers," not including the Attorney General. Criminal prosecution is vested in local district and county attorneys, not with the Attorney General.

In 1976, the CJD denied a grant request from the Attorney General which would have established a tactical undercover police unit in the Attorney General's Office to fight drug smuggling on the Texas-Mexico border. The grant was denied because the Attorney General has no legal police powers. At that time, the CJD also admonished the Task Force to keep its operations within the law.

On March 7, 1978, the Governor of Texas requested an audit and review of Task Force operations, and the CJD initiated a financial and programmatic audit. Its major findings are:

## ONE

### Illegal Operation of Task Force Members as Peace Officers (Including Undercover Activities).

These activities were found to include undercover police work, surveillance work, general police work, and active participation in gun-point arrest.

## TWO

### Illegal Gathering, Maintenance, and Dissemination of Intelligence Data by the Task Force.

The Legislature has vested the authority for gathering, maintaining, and disseminating intelligence data within the DPS. The Attorney General has no legal authority to operate an intelligence agency.

## THREE

### Unauthorized Assignment of Task Force Staff Members Full-Time to Law Enforcement Agencies.

The grantee has violated LEAA/CJD guidelines by assigning three Task Force employees indefinitely on full-time "detached service" to state and local law enforcement agencies.

## FOUR

### Poor Administration in Maintaining Records.

We found inaccurate and incomplete employee activity and time records, absence of statistical accountability, and incomplete records of cases and litigation. These poorly kept records and lack of statistics fail to provide an adequate data base necessary for evaluation of Task Force activities.

## FIVE

### Weakness in Financial Records.

The audit developed 19 findings concerning financial records and/or administrative procedures, reflecting a net overstatement in allowable expenditures of \$3,728.71, and a lack of, or weakness in, controls over expenditures.

## AUDIT REPORT

### ATTORNEY GENERAL'S CRIMINAL TASK FORCE FOR ORGANIZED CRIME

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#### BACKGROUND

The Criminal Justice Division of the Governor's Office (CJD) has awarded six grants to the Attorney General of Texas for the operation of a Criminal Task Force for Organized Crime, (hereinafter referred to as the Task Force). These grants cover the period from February 1, 1973, through December 31, 1978, for a total (net of refunds) of \$1,706,174. Funding for such grants is provided through the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The Act mandates that the State Planning Agency (in Texas, CJD) shall provide for fund accounting, auditing, monitoring, and program evaluation necessary to assure sound fiscal control, effective management, and efficient use of funds received. CJD has heretofore performed a fiscal audit of the project covering the

period February 1, 1973, through February 28, 1974, to determine the allowability of recorded project costs and compliance by the grantee with Law Enforcement Assistance Administration (LEAA) and CJD guidelines and financial conditions attached to the Statement of Grant Award.

## SCOPE OF AUDIT

The CJD has performed a fiscal and programmatic audit, focusing primarily on the grant numbered AC-76-D02-4221 covering the period January 1, 1977, through December 31, 1977.

While focusing on the grant period January 1, 1977, through December 31, 1977, we have examined records and operations of prior and subsequent years to insure continuity of perspective. The scope of the audit is subdivided into two sections, representing examinations to insure the integrity of (a) financial operations and records and (b) programmatic operations and records.

### Financial Audit

The examination of the integrity of financial operations and records included:

- A. An assessment of the internal controls covering financial transactions, records, and reports.
- B. An examination of financial records and documentation for accuracy and timeliness.
- C. An examination of expenditures to ascertain compliance with federal and state law; federal, state, and CJD guidelines; the

grant award; and any general or special conditions attached to the grant award.

- D. An examination of expenditures to ascertain whether such expenditures were for the purposes stated in the approved grant.

#### Programmatic Audit

The examination into the integrity of programmatic operations and records included:

- A. An analysis of the Attorney General's grant application and subsequent CJD grant award and of applicable law under which the project may operate.
- B. An examination of the records and reports of activities of grant operations and grant personnel to ascertain compliance with the grant award; federal and state law; federal, state, and CJD guidelines; and any general or special conditions attached to the grant award.

This report reflects those findings considered to be of major significance.

GENERAL COMMENTS

The Task Force is comprised of four regional offices and a central headquarters. The grant, as initially approved, provides for staffing the Task Force with 13 persons, including the Agent-in-Charge/Project Director, distributed as follows:

Austin (Central Headquarters)	Agent-in-Charge/Project Director Five Investigators One Attorney One Accountant-Investigator One Secretary
Dallas	One Attorney
San Antonio	One Attorney (Assistant Agent-in-Charge)
Houston	One Attorney
McAllen	One Attorney

The grant was adjusted on March 1, 1977, to decrease the staffing by one Attorney and increase by one Investigator.

The grant was further adjusted on March 14, 1977, October 6, 1977, and December 21, 1977, to provide for a grantee cash contribution (state funds) of \$5,000 for investigative expenses.

Except for the \$5,000 noted immediately above and the salary of the Project Director, CJD grant funds were approved for all other direct operating costs identified in the grant.

The Project Director was advised on March 15, 1978, that this audit was to be conducted and that field audit work would begin in the offices of the Project Director on March 20, 1978. At the beginning of the field audit, the grantee was represented by the Project Director and the Project Financial Officer (an Accountant-Investigator). The Project Director was informed of the scope of the audit and was advised that the Project Financial Officer need not be present during the audit since the relevant accounting records required were maintained in the Accounting Division of the Attorney General's Office. We requested case files and detailed records of employee activity. In response, the Project Director advised that there were few case files as such and that information sought by us was maintained in his files in such a manner that the information sought was comingled with confidential and sensitive information such as:

- a. Names and locations of informants.
- b. Names and locations of ongoing undercover investigations.
- c. Other intelligence data collected and maintained which was not identifiable with a specific case.
- d. Contacts with certain other agencies.
- e. Techniques of operation of the Task Force.

During the course of specific case analyses later in the audit, the Project Director illustrated to us the sensitivity of Task Force records by stating that if some of the information "got out," someone could be shot or killed.

The Project Director cautioned that handling records, copying records, or exposure to those records would place us in possession of information that, if made public, would constitute a criminal offense for which he personally would pursue prosecution.

To avoid unnecessary exposure to the confidential information, we sought to extract limited information from the records of the Task Force office and to rely on information provided by the Project Director that would later be completed and/or corroborated through interviews with representatives of law enforcement and prosecutorial agencies throughout the state.

An audit which would completely capture the nature and extent of all activities in which the Task Force was engaged would necessitate exposure to the confidential records.

To supplement the information (regarding programmatic activities of the Task Force) not readily accessible from the Task Force files, given the constraints noted above, we interviewed 85 current or past representatives of 46 local, state, and federal law enforcement and prosecutorial agencies in 33 cities.

For interviewing the aforementioned representatives, two questionnaires were developed to corroborate information obtained from the Task Force Project Director and project files, and to seek a local perspective of

the Task Force operations. The questionnaires were used to survey agencies identified by the Project Director to have requested assistance from the Task Force, participated with the Task Force in specific case activities, or in other localities where it had been indicated that the Task Force had conducted activities.

If the results of the questionnaires related to a specific Finding, the results are embodied in the text of the related Finding. If the results lent themselves to multiple uses, the results are presented in Exhibits C through E.

The Project Director explained to us that public disclosure of certain employee names, locations, and activities would compromise security efforts and reduce the effectiveness of the Task Force operations. To avoid any compromise of confidential information and in deference to that admonition, this report is written to exclude the specificity which would render the report confidential. Such information is documented in the audit work papers.

PROGRAMMATIC PARAMETERS OF THE LAW AND THE GRANT

The Law

Texas law provides that the Attorney General's Office is primarily civil in nature, with specific and limited authority in criminal matters. The broadest authority for operation of the Attorney General's Office is Article 4 § 22, Texas Constitution, which charges the Attorney General with responsibility to (1) represent the State in the Texas Supreme Court, (2) advise the Governor and other executive officers when requested, (3) report to the Governor statewide statistics on both criminal and civil actions and federal actions involving the State, (4) inquire into charters of corporations to determine whether they are operating within the scope of the charter, and (5) seek forfeiture of the corporate charter if civil investigation shows cause.

Within this Constitutional framework, the Legislature has defined specific duties and responsibilities and has defined relationships between the Attorney General and other agencies, including the Department of Public Safety (DPS) and the county and district attorneys.

Article 4399, VCS, provides:

"...the Attorney General shall advise the several district and county attorneys of the State, in the prosecution and defense of all actions in the district or inferior courts, wherein the State is interested, whenever requested by them, after said attorney shall have investigated the question, and

shall with such question, also submit his brief.... He [AG] is hereby prohibited from giving legal advice or written opinions to any other than the officers or persons named herein...." (Emphasis added)

Holdings by Texas courts have further defined and explained these duties and responsibilities and relationships.

Specifically, Texas courts have held that the Attorney General may not assume the duties and powers conferred on the county and district attorneys, even at legislative mandate, although the Legislature may provide that the Attorney General be an advisor to the district and county attorneys. [State v. Moore, 57 Tx 307; Maude v. Terrell, 200 SW 375; State ex rel Hancock v. Ennis, 195 SW2d 151, ref. n.r.e.]

The scope of the Attorney General's duties and responsibilities in criminal matters is further defined by legislative mandate in Article 20.03, et seq, CCP, providing authority for the Attorney General to appear before a grand jury. The commentary by the Honorable John Onion, Presiding Judge of the Court of Criminal Appeals, notes that this authority is provided only for those situations when local prosecution has broken down. The duties, responsibilities, and powers of the Attorney General in regard to grand jury presentation are explicitly specified in Article 20.03, et seq, CCP. They include preparing indictments, examining witnesses, subpoenaing and attaching witnesses, and giving legal advice.

In addition to these grand jury powers and duties, the Attorney General is empowered by Article 52.01-.09, CCP, to request a court of inquiry in writing.

The statewide authority for the appeal of criminal matters is vested in the State Prosecuting Attorney, rather than the Attorney General [Article 1811, VCS].

The relationship of the Attorney General to law enforcement is likewise explicitly specified in the Texas Constitution and statutes:

1. The Governor, as chief executive, has the ultimate power of law enforcement [Article 4 § 7, Texas Constitution]. The Governor has authority to assume command of DPS under certain conditions [Article 4413(24), VCS].

2. Vested in the DPS is the responsibility, duty, and power for "the enforcement of the laws protecting the public safety, providing for the prevention and detection of crime" [Article 4413(1), VCS].

- a. Intelligence gathering, maintenance, and dissemination are law enforcement functions vested in the DPS [Article 4413(16), VCS].

- b. Law enforcement officers have a direct mandate to assist DPS.

The DPS may "call upon any sheriff or other police officer...for

aid and assistance in the performance of any duty imposed by this Act; and...it shall be the duty of such officer concerned to comply with such order to the extent requested." [Article 4413(20), VCS].

- c. The Attorney General, on the other hand, is mandated to "cooperate" with DPS, along with all other state agencies, including the Department of Highways and Public Transportation and the Department of Health [Article 4413(23), VCS].

3. Law enforcement authority is further vested by the Texas Legislature with "peace officers." Peace officers are specifically defined in Article 2.12, CCP, to include:

- "(1) sheriffs and their deputies;
- "(2) constables and deputy constables;
- "(3) marshals or police officers of an incorporated city, town, or village;
- "(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- "(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- "(6) law enforcement agents of the Alcoholic Beverage Commission;
- "(7) each member of an arson investigating unit of a city, county or the state;
- "(8) any private person specially appointed to execute criminal process;
- "(9) officers commissioned by the governing board of any state institution of higher education, public junior college or the Texas State Technical Institute;

"(10) officers commissioned by the Board of Control;

"(11) law enforcement officers commissioned by the Parks and Wildlife Commission;

"(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier; [added in 1973]

"(13) municipal park and recreational patrolmen and security officers; and [added in 1975]

"(14) security officers commissioned as peace officers by the State Treasurer." [added in 1977]

Additionally, the 65th Legislature, in 1977, granted powers of arrest, search and seizure to certain federal criminal investigators, although they were not designated as peace officers. They include:

- special agents of the FBI,
- special agents of the Secret Service,
- special agents of the U.S. Customs, excluding border patrolmen and custom inspectors,
- special agents of the Bureau of Alcohol, Tobacco and Firearms, and
- special agents of the Federal Drug Enforcement Agency.

An attempt was made in 1973 to include the Attorney General's "investigators" as "peace officers" with the introduction of Senate Bill 763 in the 63rd Texas Legislature. This proposed bill added the words "and state attorney generals" (emphasis added) to Item 5 of Article 2.12 so that it would have read, "(5) investigators of the district

attorneys', criminal district attorneys', county attorneys', and state attorney generals' offices." The Texas Legislature did not pass the bill; it was referred to the Senate Jurisprudence Committee, where it died.

Article 2.12 was expanded in 1973, however, to include airport security officers. It was expanded again in 1975 to include municipal park and recreational patrolmen and security officers. It was expanded still further in 1977 to include security officers commissioned as peace officers by the State Treasurer.

Since the initial funding of the Task Force in 1973, the Texas Legislature has repeatedly expanded the scope of Article 2.12, CCP, while specifically and consistently denying peace officer designation to the Attorney General.

Thus, it is clearly the intent of the Legislature, by denying the Attorney General police powers in 1973 and declining to grant them in the expansions of 1975 and 1977, that police powers remain vested in the DPS and those specific law enforcement agencies listed in Article 2.12, CCP, and not in the hands of the Attorney General.

Until and unless the Legislature acts to grant such powers to the Attorney General, any exercise of police power, which is granted by law only to "peace officers," must be viewed as an illegal activity.

## The Grant

Within this legal framework, the Attorney General's Organized Crime Task Force grant application for funding from CJD summarizes its goals:

"Reduce the incidence of organized crime in Texas by continuing to assist prosecutorial entities and law enforcement agencies throughout the state who do not have the capability of investigating and prosecuting organized crime cases upon request of these prosecutors." (Page 4, Grant Application #AC-76-D02-4221) (Emphasis added)

The expanded goals section defines target areas as white collar crime, illegal gambling, illegal drug traffic, loansharking, labor racketeering, organized motor vehicle theft, prostitution, and pornography.

Summary of the methods section (Page 4, Grant Application) defines methods as:

"...assisting in the accrual phase of organized crime intelligence and in the analysis, assimilation, and evaluation of such intelligence for development of evidence to be used in such prosecutions, especially multi-jurisdictional criminal activities. Civil suits, where applicable, will also be filed against persons and business entities."

The expanded methods section (Page 4f, Grant Application) states that:

"Continued funding of the Attorney General's Criminal Task Force for Organized Crime will insure operations in the full implementation stage. Personnel assigned to this division will remain available on a seven-day a week, 24-hour a day

basis to advise and assist in all local and state enforcement and prosecutorial agencies engaged in combating organized criminal activity and to encourage other agencies not currently participating in such enforcement to become involved in this endeavor. Coordination will continue between this division and each of the Criminal Justice Council funded metro units, district attorney special crimes bureaus and each of the funded organized crime task force units in the state."

As defined by parameters of law and the grant, a typical case involving Task Force participation would involve:

- a. A District Attorney asks the Task Force for assistance in investigating an organized crime matter. (Although assistance may extend to Task Force members working with various law enforcement agencies, the grant provides that the initial request will come from a prosecutor.)
- b. Project Director assigns specific Task Force member(s) to work on the request.
- c. District Attorney briefs Task Force members assigned by Project Director;
- d. Task Force personnel gather relevant intelligence data from DPS, and other state, local, and/or federal law enforcement agencies;
- e. Task Force personnel analyze data accrued from such agencies;

- f. From this analysis, Task Force personnel provide District Attorney with assistance in drafting search and/or arrest warrants;
- g. Task Force personnel accompany local, state, and/or federal law enforcement personnel in serving warrants to assure that legalities -- such as Miranda warnings or presence of counsel at a confession -- are observed.
- h. Task Force personnel assist local authorities in witness interviews;
- i. Task Force personnel analyze complex financial records obtained as result of search and seizure;
- j. Civil procedures, if appropriate, are set in motion from Attorney General's Office, such as sales tax recovery, quo warranto, or civil injunction suit;
- k. Task Force members testify before grand jury as to evidence developed above;
- l. District Attorney requests assistance in prosecution; and
- m. Task Force personnel assist District Attorney in trial to render advice and counsel as case progresses, to prevent error which could cause a case to be reversed.

On December 10, 1976, the Criminal Justice Division Advisory Board considered two Attorney General's Office grant requests. One was the Task Force project examined in this report. The other was a request (under CJD funding category B4 -- police organized crimes units) by the Attorney General for an undercover police unit to fight drug smugglers on the Texas border. This request was denied because the Attorney General has no criminal police authority under Texas law. (A grant was shortly thereafter made for a similar unit to DPS, where such authority is vested by Texas law.)

In discussions relating to the Task Force grant, this point was emphasized by the Criminal Justice Division Executive Director. He pointed to recommendations of the Colorado Attorney General's Office, in an evaluation of the Task Force, which had recently been filed with CJD.

That evaluation made several recommendations, including:

- . Bringing all law enforcement effort, both police and prosecution, against organized crime under the authority of the Texas Attorney General (a step that would require Constitutional and legislative change in Texas).
  
- . Legislation to make Attorney General's investigators peace officers (an action the Legislature refused to take before and after the evaluation report was issued).

- . Acquiring liability insurance to

'provide coverage for investigators (of the Task Force) that may be sued for false arrest, civil rights violations, etc.... Without this coverage, investigators are more apprehensive to perform their duties.'

(No mention was made of the fact that Task Force duties, as defined by the law and the grant, did not include such police activities.)

- . Revamping filing systems to more sophisticated methods of categorizing "criminal/civil activity and persons, and places."

(The Task Force was not authorized by the Constitution, statutes, or the grant to maintain such records.)

- . Improving security of sensitive criminal information files.

(The Task Force was not authorized by the Constitution, statutes, or the grant to maintain such records.)

- . Permitting the Task Force to purchase vehicles for undercover purposes. (The Task Force was not supposed to be conducting undercover work.)

Such recommendations would not have been necessary had the Task Force been operating within the scope of Texas law and the existing grant. This point was emphasized by the CJD Executive Director to the

Task Force Project Director in a public meeting of the courts subcommittee of the Criminal Justice Division Advisory Board. The CJD Executive Director specifically admonished the Task Force Project Director to keep the operation of the grant within the scope of the law, and it was with an understanding that this would be done that the Criminal Justice Division Advisory Board recommended the grant for approval.

## AUDIT FINDINGS AND CONCLUSIONS

### Programmatic

This section of the Audit Findings and Conclusions is presented in two sub-sections, Operational and Management:

#### Operational

1. Illegal Operation of Task Force Members as Peace Officers (Including Undercover Activities). Based on descriptions of grant activity by the Project Director and interviews with law enforcement and prosecutorial officials, we find that Task Force members have operated illegally as peace officers.

These activities were found to include:

- . Undercover police work,
- . Surveillance work,
- . General police work, and
- . Active participation in gun-point arrest.

We also find that a substantial question of civil liability is raised by these illegal activities.

A. Undercover Police Work

Of those representatives of law enforcement and prosecutorial agencies who are generally familiar with the Task Force (see Exhibit C), six percent responded that they perceived activities of the Task Force to include undercover work; six percent responded that they had been offered undercover work by the Task Force; and eight percent responded that they had requested undercover work assistance from the Task Force.

Of the representatives of law enforcement and prosecutorial agencies questioned on types of assistance actually received, 38 percent responded that undercover work by Task Force members had been involved (see Exhibit D).

The Project Director discussed with us specific cases where undercover work had been part of Task Force activities, and repeatedly cautioned us against revealing any circumstance which could possibly endanger Task Force members actively engaged in undercover work at this time.

B. Surveillance Work

The Project Director discussed with us specific cases where surveillance work had been part of Task Force activities.

Of the representatives of law enforcement and prosecu-  
torial agencies questioned on types of assistance actually  
received, 45 percent stated that surveillance work by  
Task Force members had been among forms of assistance  
received (see Exhibit D).

However, in response to questionnaires, no local, state,  
and/or federal agency official stated that he perceived  
surveillance work as a part of Task Force activities, or  
requested it, or was ever offered surveillance as an item  
of assistance. Based on the above facts, the surveillance  
assistance received was accomplished independently and  
without request.

C. General Police Work

Task Force personnel were described both by the Project  
Director and by law enforcement agencies to whom they are  
assigned as being on indefinite "detached service" as  
part of the host agency's overall manpower pool. In each  
instance so noted, law enforcement supervisors confirmed  
that Task Force members are deployed, assigned, and  
supervised in the same manner as all other members of the  
law enforcement agency to which they are assigned.

The Project Director described to us one specific program  
of assistance being provided to a specific law enforcement

agency. In an effort to gain further insight into the terms of that assistance program and the nature of the assistance provided, we interviewed 15 relevant officials from eight affected local, state, and federal law enforcement and prosecutorial agencies.

From those interviews, we confirmed that the Task Force members have been assigned to a law enforcement agency on detached service as part of the overall manpower pool. They are supervised by the chief of the host agency, and their duties and duty assignments are identical to those of peace officers employed by that agency, including undercover, surveillance, and the making of arrests. The Task Force members clearly are performing a part of the general police work of the agency.

D. Active Participation in Gun-Point Arrest

Two local law enforcement officials acknowledged that they had personally observed Task Force members to be operating with their guns drawn while in the act of making an apprehension. In this instance, the initial apprehension was made by members of three or more participating agencies, including the Task Force, but excluding the local law enforcement officials in whose jurisdiction the arrest occurred. We were informed that Task Force

members and other officers were holding the accused persons at gun-point when local law enforcement officials joined the arrest.

E. Alleged Authority for Use of Firearms and Making Arrests

Authority for Task Force members to carry firearms in the performance of their duty has been attributed by the Project Director to appointment by a District Attorney as "District Attorney Investigators."

We interviewed representatives of 17 District Attorneys' offices, and determined that one of those District Attorneys had, in 1973, named three members of the Task Force as investigators of his office. A second District Attorney had, on or after May 31, 1977, similarly appointed 16 members of the Task Force as investigators of his office. Of the 16, three appointments have subsequently been terminated upon the employees' termination of employment with the Task Force.

On February 6, 1978, the Texas Commission on Law Enforcement Officer Standards and Education requested an Attorney General's Opinion on the legal sufficiency of such District Attorney appointments. As of April 19, 1978, the Attorney General had not issued an opinion on this subject, and this report, therefore, does not address that issue.

However, it is clear from Article 326-k, et seq, VCS, that the authority provided by such appointments as District Attorney Investigators extends only to the jurisdictional boundaries of the Judicial District in which the appointment was issued, and lies only with those matters being investigated for that District Attorney. One of the two District Attorneys named advised us that his office had thus defined the scope and authority of its Investigators in a written memorandum.

Before May 31, 1977, Task Force members had operated under commissions issued by the Texas Board of Control. The Board of Control rescinded those commissions as of May 30, 1977. Authority granted by Board of Control commissions extends only to the Capitol Complex in Austin, Texas, as described by statute. [Article 678e §§ 7 and 8, VCS]

Of 20 agencies that had requested and received assistance from the Task Force, or had participated in arrests with the Task Force, 12 said that, to their knowledge, Task Force members do not carry firearms. Two gave personal descriptions of circumstances where they believe it would be appropriate for Task Force members to carry firearms -- including surveillance, undercover work, and participating in arrests -- although they professed no knowledge of whether Task Force members do, in fact, carry firearms.

Eight said that Task Force members have, in their presence, carried firearms in such circumstances as:

- . Surveillance,
- . Undercover work, or
- . Participating in or making arrests.

Among these was the District Attorney who had issued "District Attorney Investigator" appointments to three Task Force members in 1973. He stated that Task Force members had carried firearms within his jurisdiction prior to 1977. A second official was from within the jurisdictional boundaries of the District Attorney who had issued 16 "District Attorney Investigator" appointments to Task Force members; but none of the eight officials made reference to cases investigated at the request of that District Attorney. Six of the eight officials were from localities entirely outside the jurisdictions of either of the two District Attorneys.

F. Question of Civil Liability

The questions of liability, discussed in the previously mentioned Colorado evaluation report (page 18), are raised again by the fact that Task Force members are engaging in surveillance and undercover work, and are participating in arrests in spite of the admonition of the Executive Director of the Criminal Justice Division on December 10, 1976, to keep the operation of the grant within the law.

The Colorado evaluation stated,

"Liability insurance is needed to provide coverage for investigators that may be sued for false arrest, civil rights violations, etc.... Without this coverage, investigators are more apprehensive to perform their duties."

For example, should Attorney General's Task Force members, in the process of participating in an arrest, accidentally cause injury to anyone (the arrestee, another official, an innocent bystander, or even themselves), liability for civil damages might be held against the Governor, individual members of the CJD Advisory Board, or CJD staff members for having provided the funding under which the Task Force operates. Similarly, civil liability might be held against the Attorney General of Texas, a Task Force member, any local official, city or county government that authorized an appointment under Article 2.12, CCP, or the heads of cooperating law enforcement agencies present at the time of the incident.

Liability insurance was not provided under the grant because Task Force members should not be operating as "peace officers." The law and the grant provide only that they may accompany peace officers on such occasions to provide advice and counsel on observing legal amenities, to be sure that important organized crime cases are not lost in court because such legalities were not observed.

G. Summary

Activities cited in the preceding -- undercover police work, surveillance work, general police work, and active participation in gun-point arrest -- are all law enforcement activities vested by the Legislature in the DPS and peace officers as specifically identified in Article 2.12, CCP (see pages 9 through 14), and are not within the legal duties, responsibilities, and powers of the Attorney General of Texas.

2. Illegal Gathering, Maintenance, and Dissemination of Intelligence Data. Based on descriptions of grant activity by the Project Director and on interviews with law enforcement and prosecutorial officials, we find that the Task Force has been illegally engaged in intelligence activities.

These illegal activities include:

- . Gathering of intelligence data,
- . Maintenance of intelligence files, and
- . Dissemination of intelligence data.

A. Illegal Gathering of Intelligence Data

To explain the difficulty of determining case statistics, the Project Director told us that much of the Task Force effort is devoted to gathering generalized intelligence on organized crime activities and persons rather than specific litigation-related activities. He said members of the Task Force might spend months working to build intelligence data that may or may not later be

developed into evidence for a specific prosecution. As the Project Director described this activity, it could be initiated by the Task Force, or be carried out in response to a request for assistance from a District Attorney.

That the Task Force is gathering criminal intelligence data was indicated by responses to our questions charted in Exhibit C. Twenty-nine percent of law enforcement and prosecutorial officials said they had been offered criminal intelligence by the Task Force. Five percent said they had exchanged intelligence information with the Task Force.

Of the persons indicated by the Project Director to have requested Task Force assistance, seven percent requested criminal intelligence information and 20 percent received such information. (See Exhibit E.)

Further intelligence data is gathered through the weekly activity reports filed and maintained in the Headquarters office by Task Force personnel, including those Task Force members assigned on detached service to state and/or local law enforcement agencies. These reports, according to the Project Director, contain confidential and sensitive data pertinent to active cases, investigations, intelligence information, and/or the identity of informants.

Among responses to the question of how law enforcement and prosecutorial officials perceive the Task Force's

work, two percent stated "intelligence gathering," and eight percent stated "track movement of organized crime and organized crime figures" (see Exhibit C).

B. Illegal Maintenance of Intelligence Files

The Project Director repeatedly emphasized to us the confidentiality and sensitivity of files maintained at Task Force headquarters, describing their nature as intelligence data. He said information in the files is arranged in a manner of complex codes and scattered documents designed to enhance security of the files. The Project Director explained that when an investigation becomes specific, individual documents are gathered or copied from their scattered locations and compiled into a single litigation file. However, original documents are sometimes retained in their scattered locations to serve other purposes.

In addition to these files, the weekly activity reports filed by Task Force personnel and maintained in the Headquarters office were described by the Project Director as having confidential and sensitive data pertinent to active cases, investigations, intelligence information, and/or the identity of informants.

Thirty-two percent of those law enforcement and prosecutorial officials who responded to the question, "As you understand the Attorney General's Organized Crime Task

Force activity, what assistance is generally available to agencies such as yours?" said they perceive the Task Force to be a source of intelligence data. Speaking to those activities, a total of 38 percent perceived the Task Force as being a source of intelligence data, intelligence gathering, intelligence information exchange, and tracking the movement of organized crime figures (see Exhibit C). This understanding is indicative that the Task Force either maintains an intelligence file system or can acquire and provide intelligence data.

That the Task Force is maintaining criminal intelligence data was further indicated by responses to our questions charted in Exhibit C. Twenty-nine percent of law enforcement and prosecutorial officials said they had been offered criminal intelligence by the Task Force. Five percent said they had exchanged intelligence information with the Task Force.

C. Illegal Dissemination of Intelligence Data

The Project Director stated that the Task Force shares with federal, state, and/or local law enforcement agencies its intelligence information on the location, movement, and activities of organized crime figures.

Thirty-two percent of law enforcement and prosecutorial officials who responded to the question, "As you understand the Attorney General's Organized Crime Task Force

activity, what assistance is generally available to agencies such as yours?" said they viewed the Task Force as being a source of criminal intelligence data. (See Exhibit C.) Of 40 officials who had been provided assistance from the Task Force, 10 percent said that readily accessible criminal information was available from the Task Force. (See Exhibit D.)

Forty-one percent of those law enforcement and prosecutorial officials who responded to the question, "In general terms, what types of assistance have you requested from that office over the past two years?" stated that they had requested (and all of that group confirmed receiving) criminal intelligence information from the Task Force, and five percent said they had exchanged intelligence information with the Task Force. In answer to another question, 29 percent said they had been offered assistance in the form of criminal intelligence information. (See Exhibit C.)

The Task Force was cited by local officials as being faster than other federal, state, and/or local agencies in providing intelligence data, and requiring fewer identifiers of the subject of the inquiry than other agencies. This ease of accessibility is contrary to current law enforcement practices requiring specific

identifiers that protect the accuracy of the information provided and the general privacy of individual citizens.

D. Summary

The Legislature has not provided statutory authority for the Attorney General of Texas to gather, maintain, or disseminate criminal intelligence information. Rather, the Legislature has vested these responsibilities with the DPS [Article 4413(16), VCS]:

"(1) It shall be the duty of the Director [of DPS] with the advice and consent of the Commission to name the Chief of the Bureau of Intelligence.

"(2) This Bureau shall, with the aid of the other Divisions and Bureaus of the Department, accumulate and analyze information of crime activities in the State, and shall make such information available for the use of the Department and of county and municipal police and law enforcement agencies.

"(3) It shall aid in the detection and apprehension of violators of the law."

The open opportunity for abuse of intelligence gathering capabilities and the maintenance of intelligence files in the hands of an elected official is a sound rationale for the placing of these responsibilities within the DPS by the Legislature, rather than within the Attorney General's Office. The Attorney General's Office has no legal authority to be an intelligence agency, and we find it

has acted illegally in the gathering, maintaining, and disseminating of criminal intelligence.

3. Unauthorized Assignment of Task Force Staff Members Full-time to Law Enforcement Agencies. The grantee has misused grant funds and violated LEAA/CJD guidelines by assigning three Task Force employees indefinitely on full-time "detached service" to state and local law enforcement agencies. The assignments in question are not merely advisory to the agencies, but are effective transfers of personnel from the Task Force to a law enforcement agency. The employees in question are performing various police functions under the direct supervision of the heads of law enforcement agencies. These functions are not related to requests for assistance on a specific case, but are performed routinely on whatever matters the law enforcement agency is conducting.

The grant application specifically stated all Task Force employees would be "under the direct supervision of the Project Director." The grant was funded under a "courts" program description with funds specifically set aside for prosecution and prosecutor-assistance projects. Full-time assignment of personnel to any other agency is not authorized in the grant and assignment to a law enforcement agency has the impact of an unauthorized unilateral diversion by the Attorney General of funds from one functional category to another.

In addition, it was found that Task Force members were reporting in detail their activities to the Project Director while under the "direct supervision" of a law enforcement agency. Such dual reporting compromises the security of the law enforcement agency's information.

### Management

1. Poor Administration in Maintaining Records. Based on the following facts, we conclude that records and statistical data have been poorly administered and maintained.

- A. Employee Activity and Time

The Project Director advised us that each member of the project staff, except himself and the Secretary, is required to account weekly for his time on forms that provide for a raw statistical listing of man-days (not hours) and tasks. These forms describe the nature of any activity performed and the character of any investigation undertaken (target area). On the same form are narrative remarks identifying the specific case on which the employee was working. The Project Director stated that, of necessity, this information was confidential or sensitive data pertinent to active cases, investigations,

intelligence information, and/or the identity of informants. (To avoid exposure to such data, we chose to accept statistical accountability of reported time without verifying its accuracy through the narrative remarks.)

While tabulating summary statistical totals from those records, we noted that files were being pulled by Task Force staff to make additions, deletions, and/or corrections. We found that records for one employee included reports for only 44 weeks, although he had been employed for the entire calendar year.

One employee described to us the manner in which he recorded the allocation of his time. His description was inconsistent with that of the Project Director and with the form itself.

Mathematical errors were additionally noted.

We were provided activity records for 16 persons and the Project Director confirmed that these comprised all records on employee activity. However, through an independent process, we verified that the number of persons on whom such records should have been maintained was 17. The information from these reports was compiled

by us to determine compliance with LEAA and CJD guidelines and to serve as a frame of reference for other audit efforts.

An LEAA evaluation of this project in February, 1975, made the following recommendation: "Project should improve its recordskeeping system, especially re man-days and cases or investigation worked on by staff members."

B. Absence of Statistical Accountability

When we requested copies of statistical records indicating the level and nature of Task Force activities, the Project Director advised that he was not in the business of keeping statistics and that to do so would impede the performance of Task Force duties. We therefore requested an accounting of the

- number of cases active at the beginning of 1977,
- number of cases closed during 1977,
- number of cases opened during 1977,
- number of cases remaining open at the end of 1977,
- number of cases closed during 1978.

This information was needed by us to aid in determining the work load of the grantee and to serve as the data base from which selected cases would be examined during the audit work.

To provide those statistics, the Project Director assigned staff to make an analysis from the narrative comments on the employee activity records.

C. Incomplete Records of Cases and Litigation

We requested copies of all docket sheets for calendar year 1977. Project staff provided a book that was represented to contain all such docket sheets, except for dockets of the 229th Judicial District (Starr, Duval and Jim Hogg counties). Through an analysis of the grantee's Quarterly Progress Reports submitted to the CJD and cases identified through interviews with the Project Director and officials of other state and local agencies, additional cases were identified that had not been recorded in the docket book which was earlier described by the Project Director as complete, except for the 229th Judicial District.

D. Summary

These poorly kept records and lack of statistics fail to provide an adequate or reliable data base necessary for

evaluation of Task Force activities as is required by conditions of the grant. It should be noted that an LEAA evaluation of this project in February, 1975, recommended: "That adequate provision be made to collect sufficient statistics and data in order to quantificably evaluate the success (or lack of it) of this Task Force."

### Financial

The audit developed 19 findings affecting the financial records and/or related administrative procedures. The details of the findings are presented in Exhibits A and B attached to this report.

The Statement of Project Cost (Exhibit A) reflects a net overstatement of \$3,728.71 in costs. This overstatement results from exceptions taken to expenditures reported against grant funds for the 1977 grant period.

LEAA and CJD guidelines and procedures for financial administration of grants require grantees to submit quarterly expenditure reports which also reflect all unpaid obligations to date. Those same guidelines and procedures allow 90 days after the end of a grant period for payment of all outstanding obligations accrued within the grant period. Grantees are further required to submit, at the end of that 90-day period, a final expenditure report which reflects liquidation of all obligations, adjustments (if necessary) to expenditures earlier reported, and a refund of any unused grant funds.

The final expenditure report for the 1977 grant period was not due at CJD until April 20, 1978, and it was not available at the time the audit began. For this reason, exceptions taken in this report to specific expenditures are taken against the expenditures and unpaid obligations reported by the grantee in its quarterly expenditure report as of December 31, 1977, the last day of the 1977 grant period. Before submitting the final expenditure report, the grantee has the opportunity to pay remaining outstanding obligations or to make adjustments which, if accomplished, could render moot some expenditures to which exception is taken in this report. However, some of the findings represented weaknesses in related administrative procedures, the nature of which precludes any corrective action in the final report.

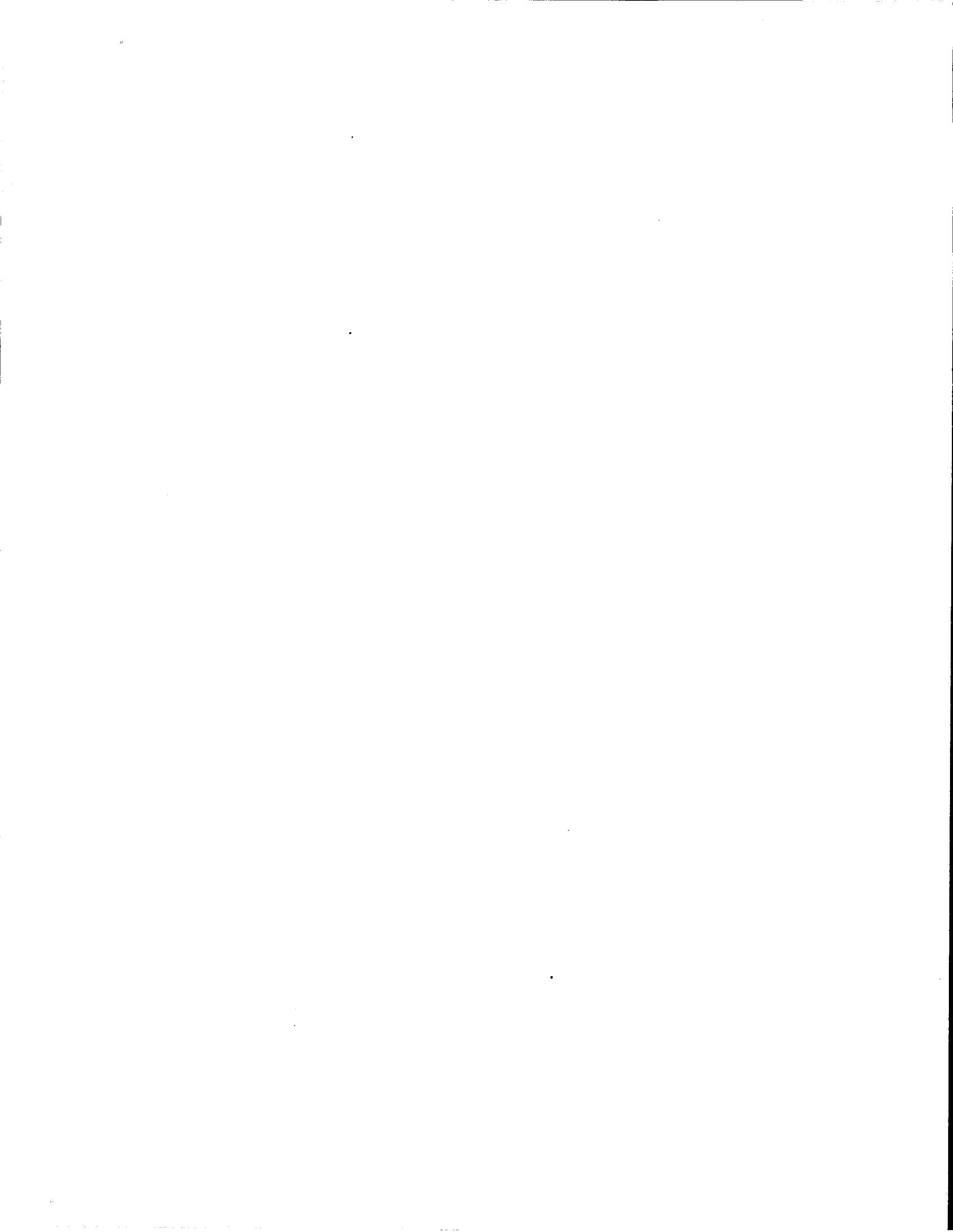
All of the quarterly reports submitted under this grant required numerous reconciling items to effect a balance with the recorded expenditures. In general, the number and type of findings appeared to indicate a considerable lack of, or weakness in, the controls over expenditures.

# PROJECT COST

GRANT NUMBER: AC-76-D02-4221

BUDGET CATEGORY	APPROVED BUDGET		EXPENDITURES PER GRANTEE		EXCEPTIONS AND TRANSFERS		AMOUNT PER AUDIT	
			* (See Below)		INCREASE	(DECREASE)		
	CJD	LOCAL	CJD	LOCAL	CJD	LOCAL	CJD	LOCAL
PERSONNEL	\$297,937.00	\$34,536.00	\$292,324.78		(\$7,034.26) \$1,772.36		\$287,062.88	
PROFESSIONAL SERVICES								
TRAVEL	37,180.00		38,994.21		(541.31) 441.17		38,894.07	
EQUIPMENT								
SUPPLIES AND OTHER OPERATING EXPENSES	35,837.00	5,000.00	36,808.12		(2,239.12) 3,872.45		38,441.45	
INDIRECT COST								
TOTAL	<u>\$370,954.00</u>	<u>\$39,536.00</u>	<u>\$368,127.11</u>		<u>(\$3,728.71)</u>		<u>\$364,398.40</u>	

\* Includes Obligations at 12/31/77



AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS																
CJD FUNDS	LOCAL																	
		<u>PERSONNEL</u>																
(\$3,354.18)		<p>1. The original budget in the grant application provided for the funding by Criminal Justice Division of salaries for an Assistant Agent-In-Charge, who was to be an attorney, 4 additional attorneys and 5 investigators. (Amended by Grant Adjustment No. 1, effective March 1, 1977, decreasing attorneys to 3 and increasing investigators to 6.)</p> <p>During January and February, 1977, the personnel category was being charged with the salaries of the Assistant Agent-In-Charge, 4 attorneys and 6 investigators. Therefore, exception is taken to the salary of one investigator as follows:</p> <table style="margin-left: 40px;"> <tr> <td>Salary (\$1,486.00 x 2 mo.)</td> <td style="text-align: right;">\$2,972.00</td> </tr> <tr> <td>Fringe benefits charged:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Retirement @ 6%</td> <td style="text-align: right;">178.32</td> </tr> <tr> <td style="padding-left: 20px;">OASI @ 5.85%</td> <td style="text-align: right;">173.86</td> </tr> <tr> <td style="padding-left: 20px;">Insurance @\$15 per mo.</td> <td style="text-align: right;">30.00</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>\$3,354.18</u></td> </tr> </table>	Salary (\$1,486.00 x 2 mo.)	\$2,972.00	Fringe benefits charged:		Retirement @ 6%	178.32	OASI @ 5.85%	173.86	Insurance @\$15 per mo.	30.00		<u>\$3,354.18</u>				
Salary (\$1,486.00 x 2 mo.)	\$2,972.00																	
Fringe benefits charged:																		
Retirement @ 6%	178.32																	
OASI @ 5.85%	173.86																	
Insurance @\$15 per mo.	30.00																	
	<u>\$3,354.18</u>																	
( 6,013.41)		<p>2. Grantee continued to charge the Assistant Agent-In-Charge as well as 4 attorneys, to the payroll for the period March 1, 1977, through June 17, 1977, after the grant adjustment authorized the decrease of 4 attorneys to 3. Exception is taken to the unauthorized payroll of one attorney for the period March 1, 1977, through June 17, 1977, as follows:</p> <table style="margin-left: 40px;"> <tr> <td>Salary:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">3 mo. @ \$1,486.00</td> <td style="text-align: right;">\$4,458.00</td> </tr> <tr> <td style="padding-left: 20px;">June 1 through June 17</td> <td style="text-align: right;">878.09</td> </tr> <tr> <td>Fringe Benefits:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Retirement @ 6%</td> <td style="text-align: right;">320.16</td> </tr> <tr> <td style="padding-left: 20px;">OASI @ 5.85%</td> <td style="text-align: right;">312.16</td> </tr> <tr> <td style="padding-left: 20px;">Insurance (\$15 x 3 mo.)</td> <td style="text-align: right;">45.00</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>\$6,013.41</u></td> </tr> </table>	Salary:		3 mo. @ \$1,486.00	\$4,458.00	June 1 through June 17	878.09	Fringe Benefits:		Retirement @ 6%	320.16	OASI @ 5.85%	312.16	Insurance (\$15 x 3 mo.)	45.00		<u>\$6,013.41</u>
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OASI @ 5.85%	312.16																	
Insurance (\$15 x 3 mo.)	45.00																	
	<u>\$6,013.41</u>																	
<u>(\$9,367.59)</u>		Balance forward																

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
(\$9,367.59)		Balance forward
		<u>PERSONNEL</u> (Continued)
2,333.33		3. On the September 30, 1977 financial report, the grantee failed to include the first month's salary of \$2,333.33 for Employee 19.
		4. During the year under review, payments aggregating \$13,132.47 were made to terminating employees for accumulated vacation and sick leave. Of this amount, \$8,515.26 was reported in the regular quarterly financial reports as being chargeable against Criminal Justice Division funds while the remainder, \$4,617.31, representing payment to Employee 10, was not reported.
		LEAA guidelines provide that only those costs applicable to the administration of the grant program incurred during the grant period represent allowable costs.
		It was estimated that approximately \$4,700.00 of the \$8,515.26 of leave time was earned in the period or periods prior to the commencement of the grant under audit.
		Because this grant represents continuation of funding of a prior program, and an adjustment would merely result in the transfer of the cost to a prior grant (having no net effect), no dollar exception is taken.
		Total Personnel
<u>(\$7,034.26)</u>		

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
		<u>TRAVEL</u>
(\$120.00)		<p>1. Obligated funds at December 31, 1977, included two items of travel expense covering trips made in 1978 as follows:</p> <p style="padding-left: 40px;">Employee 4 Austin to McAllen January 4 to January 6, 1978 \$60.00</p> <p style="padding-left: 40px;">Employee 5 Austin to McAllen January 4 to January 6, 1978 <u>60.00</u> <u>\$120.00</u></p> <p>These costs are disallowed because they were incurred subsequent to the end of the grant period.</p>
( 25.00)		<p>2. Credit Statement No. 2702 for \$25.00, dated October 25, 1977, was received from Longhorn Travels to cover refund of the unused portion of a ticket for a flight by Employee 3 from Austin to Harlingen. This credit was not applied in computing the amount paid Longhorn Travels on Voucher No. 409.</p>
(104.00)		<p>3. Voucher No. 409 paid Longhorn Travels for a trip on November 4, 1977, from Harlingen to Houston made by Employee 3 and Employee 12. Voucher No. 1118 includes payment for the same trip. Reported costs are being reduced by the amount of the duplicate payment.</p>
<u>(\$249.00)</u>		Balance forward

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
		Balance forward
		<u>TRAVEL</u> (Continued)
(\$249.00)		
( 292.31)		<p>4. The approved budget does not stipulate the payment of car mileage for travel, the only provision being for the operation of cars of the task force.</p> <p>Several instances were found where personal autos were used (primarily for surveillance) and the grant was charged the usual state mileage rate for such travel. In the cases noted, one trip was to attend a work conference and one was to assist a District Attorney in a trial preparation. The remainder, for surveillance, were not substantiated by proper documentation to show location to indicate the length of the trips.</p> <p>Exception is being taken to \$292.31, which is the aggregate of the cost of those items disclosed by our test. Since only 41% of the total costs were covered by the test, the possibility exists for further such charges in the records.</p> <p>The objection to these transactions arises partially because of the lack of authority in the approved budget and partially because of insufficient documentation. It would also appear that with the operating expense of 13 cars funded by the Criminal Justice Division for the use of the 13 task force employees, the need should not arise for the use of personal cars.</p>
	<u>(\$541.31)</u>	Total Travel

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS										
CJD FUNDS	LOCAL											
		<p><u>SUPPLIES AND DIRECT OPERATING EXPENSE</u></p> <p><u>GASOLINE</u></p> <p>1. Several purchases of gasoline were made before and subsequent to the grant period. Exception is taken to these purchases as follows:</p> <table style="margin-left: 40px;"> <tr> <td>Purchases in</td> <td></td> </tr> <tr> <td>December, 1976</td> <td style="text-align: right;">\$ 70.13</td> </tr> <tr> <td>Purchases in</td> <td></td> </tr> <tr> <td>January, 1978</td> <td style="text-align: right;">236.34</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>\$306.47</u></td> </tr> </table> <p>2. In a sample test of gasoline purchases, we found that gasoline was purchased for 32 different cars (or cars with 32 different license plates).</p> <p>The grant provides for funding of operating expenses for 13 cars.</p> <p>Therefore, it would appear that gasoline was purchased for an excess of 19 cars with Criminal Justice Division funds. We acknowledge that certain licenses are changed periodically for security purposes and there could be some ambiguity resulting from illegible tickets, but we were able to identify approximately one-half of the 32 license numbers and the remaining unaccounted numbers seems disproportionately high.</p> <p>The Attorney General should be required to provide additional documentation to substantiate the use of these cars for program purposes. The lack of such evidence would require the reduction of a pro-rata share of such costs as an audit exception.</p> <p style="text-align: right;">Total Gasoline</p>	Purchases in		December, 1976	\$ 70.13	Purchases in		January, 1978	236.34		<u>\$306.47</u>
Purchases in												
December, 1976	\$ 70.13											
Purchases in												
January, 1978	236.34											
	<u>\$306.47</u>											
(\$306.47)												
	<u>(\$306.47)</u>											

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
		<u>SUPPLIES AND DIRECT OPERATING EXPENSE</u> (Continued)
		<u>REPAIRS</u>
(\$ 46.55)		1. On November 10, 1977, O. R. Mitchell Chrysler, Plymouth was paid \$40.30 by Voucher No. 458. On the same date, Voucher No. 461 paid Mitchell \$46.55. Both vouchers were supported by the same invoice (No. 00925), one a carbon copy - the other a reproduced copy. The smaller amount reflects a 25% discount taken on parts. Exception is taken to the larger amount to take advantage of the discount.
( 126.50)		2. Mobilfone Service was paid \$126.50 on Voucher No. 4031 dated September 20, 1977. The supporting documents were all stamped "This is not an invoice." One of them, Form No. 40216, reflected an amount of \$30.00.
( 30.00)		Voucher No. 1249, dated January 27, 1978, paid Mobilfone \$30.00 and was supported by a reproduced copy of the above Form No. 40216. Exception is taken to both payments, \$126.50 because of improper documentation and \$30.00 because of the duplication of payment.
( 254.43)		3. Reported costs are being reduced for the following repair invoices dated subsequent to the end of the grant period:
		McAllen Exxon Dated 1/5/78 Voucher No. 1093 \$ 42.38
		Perry Rose Tire Co. Dated 1/12/78 Voucher No. 1252
		<u>212.05</u> <u>\$254.43</u>
<u>(\$457.48)</u>		Total Repairs

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
		<u>SUPPLIES AND DIRECT OPERATING EXPENSE</u> (Continued)
		<u>OTHER</u>
(\$915.00)		<p>1. By the terms of the grant application and further directed by Special Condition 2(a) attached to the grant award, an external evaluation of the grant is required to be made with both the method and the evaluators selected to be approved by the Criminal Justice Division.</p> <p>Grantee paid fees aggregating \$915.00 to three persons for an evaluation of the grant.</p> <p>Exception is taken to this amount because Criminal Justice Division approval was not obtained. Also, the approved budget did not address this type of expenditure and there were no invoices attached to the vouchers.</p>
( 153.00)		<p>2. On January 19, 1978, the State Comptroller rejected a voucher covering an invoice of Aviation Training Center, Inc. for the rental of an airplane for surveillance in the amount of \$153.00.</p> <p>The rejection was based on H.R. 510, Acts 1977, 65th Legislature, Article V, Paragraph 18(b)(2) which does not permit the Attorney General to short-term lease aircraft. Although this invoice was paid personally by Employee 17 in March, 1978, the original, rejected Voucher No. 401 was never voided and removed from the expenditures. Exception is taken, therefore, to this amount.</p>
(\$1,068.00)		Balance Forward

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
(\$1,068.00)		Balance forward
		<u>SUPPLIES AND DIRECT OPERATING EXPENSE</u> (Continued)
		<u>OTHER</u> (Continued)
( 253.92)		3. On the strength of the aforementioned rejection and because the approved budget does not cover such expenditures, exception is taken to two other instances of aircraft rental as follows:
		Aviation Training Center (Voucher No. 2665) \$115.20
		McCreery Aviation (Voucher No. 1090) <u>138.72</u>
		<u>\$253.92</u>
( 153.25)		4. Exception is taken to the following items of equipment purchased inasmuch as the approved budget does not provide for such expenditures:
		1 File Cabinet Voucher No. 571 Comptroller of Public Accounts \$ 25.00
		1 Pocket Recorder Voucher No. 586 Kilpatrick Equipment Company <u>128.25</u>
		<u>\$153.25</u>
		Total Other
		Total Supplies and Direct Operating Expense
<u>(\$1,475.17)</u>		
<u>(\$2,239.12)</u>		

AUDIT EXCEPTIONS

MOU 'T		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	

GENERAL

1. On numerous occasions, the typed numbers on vouchers had been manually changed. This situation tends to create difficulty in locating a given voucher to support a recorded transaction in addition to undermining control over the prepared vouchers.

It is recommended that this practice be discontinued.

\$6,085.98

2. Recorded expenditures were reconciled with those reported in the quarterly financial reports to Criminal Justice Division. There were considerable numbers of errors made in the report preparation. The accumulation of these errors and their net effect on the accounts is reflected below:

- a. Several errors in adding the work sheets used to prepare the reports, resulting in a net understatement of costs in the various categories. \$1,801.70
- b. Vouchers listed in the wrong amounts; vouchers listed which were not recorded in the grant column of the expenditure ledger; and vouchers recorded in the expenditure ledger not reported. This resulted in a net understatement of expenditures. 1,875.71
- c. One item in the obligated funds at December 31, 1977 remained unpaid. (104.41)  
Balance forward \$3,573.00

\$6,085.98

Balance forward

AUDIT EXCEPTIONS

AMOUNT		REASONS FOR EXCEPTIONS
CJD FUNDS	LOCAL	
\$6,085.98		Balance forward
		<u>GENERAL</u> (Continued)
		2. Balance forward \$3,573.00
		d. Allowable costs paid and recorded subsequent to the end of the grant period not included in the obligated funds reported at December 31, 1977. 2,512.98
		Total <u>\$6,085.98</u>
		In summary, the following expense categories are affected by the above accumulation of errors in the amount shown:
		Personnel \$1,772.36
		Travel 441.17
		Supplies 3,872.45
		<u>\$6,085.98</u>
		All of the above conditions point up a lack of proper controls over expenditures in the records of the Attorney General and a careless attitude toward the preparation of the quarterly reports.
		It is recommended that controls of expenditures be strengthened and that quarterly reports be reconciled with recorded expenditures prior to submission to the Criminal Justice Division.
<u>\$6,085.98</u>		Total General
<u>(\$3,728.71)</u>		Grand Total of Exceptions



TYPES OF ASSISTANCE GENERALLY AVAILABLE, OFFERED, AND REQUESTED FROM THE TASK FORCE

Question:	"As you understand the Attorney General's Organized Crime Task Force activity, what assistance is generally available to agencies such as yours?"		"In general terms, what types of assistance has the Attorney General's Organized Crime Task Force offered to you?"		"In general terms, what types of assistance have you requested from that office over the past two years?"	
	50 Respondents		52 Respondents		39* Respondents	
	Number and Percentage of Respondents to Category of Assistance					
	Number	Percentage	Number	Percentage	Number	Percentage
1. Liaison with federal state and local agencies	2	4	3	6	2	5
2. Source of criminal intelligence	16	32	15	29	16	41
3. Criminal history information	1	2	1	2	--	--
4. Intelligence gathering	1	2	--	--	--	--
5. Intelligence information exchange	9	18	--	--	2	5
6. Evidence gathering	1	2	--	--	1	3
7. Track movement of organized crime and organized crime figures	4	8	1	2	--	--
8. Legal advice	11	22	7	13	11	28
9. Legal assistance	5	10	4	8	2	5
10. Prosecutorial assistance	9	18	8	15	4	10
11. Render legal opinions	1	2	--	--	--	--
12. Prepare warrants	1	2	--	--	--	--
13. Use of civil remedies	4	8	3	6	2	5
14. Investigatory assistance	15	30	16	32	14	36
15. Undercover work	3	6	3	6	3	8
16. Manpower	6	12	7	13	4	10
17. Training assistance	1	2	2	4	2	5
18. Audit expertise	1	2	--	--	--	--
19. Unknown	7	14	1	2	--	--
20. None	--	--	17	33	--	--

\*Of the 52 persons questioned, only 39 requested some type of assistance.

NOTE: types of assistance listed were voluntarily named by the respondents.

EXHIBIT D

Results of Survey Questionnaire to Determine Areas in  
Which Task Force Has Generally Provided Assistance  
to Law Enforcement and Prosecutorial Agencies

Areas of Assistance	Number and Percentage of Respondents to Areas of Assistance	
	Number	Percentage
a. Liaison with other agencies	25	63
b. Witness interviews	21	53
c. Surveillance	18	45
d. Undercover work (excluding surveillance)	15	38
e. Obtaining search warrants	7	18
f. Serving search warrants/subpoenas/ visitorial letters	15	38
g. Making arrests/bookings	11	28
h. Analysis of evidence (including accounting records)	19	48
i. Case preparation	22	55
j. Grand Jury appearances	11	28
k. Appearances as witnesses	13	33
l. Court hearing and trials	12	30
m. Other (specify)	11	28
. Readily accessible criminal information	4	10
. Legal advice	3	8
. Vehicle forfeiture	1	3
. Injunctive procedures	1	3
. Nonspecific	2	5

NOTES: Areas of assistance listed as "a" through "m" were included in the questionnaire. Areas specified under "m" were voluntary responses.

A total of 40 persons were able to provide specific identity of the areas of assistance received from the Task Force.



TYPES OF ASSISTANCE REQUESTED AND RECEIVED IN SPECIFIC CASES

Question	Nature of Assistance Requested		Nature of Assistance Received			
	15 Respondents <sup>1</sup>		15 Respondents <sup>1</sup>		32 Respondents <sup>2</sup>	
	Number and Percentage of Respondents to Category of Assistance					
	Number	Percentage	Number	Percentage	Number	Percentage
1. Liaison with federal state and local agencies	3	20	2	13	2	6
2. Source of criminal intelligence	1	7	3	20	3	9
3. Criminal history information	--	--	--	--	2	6
4. Intelligence gathering	--	--	--	--	--	--
5. Intelligence information exchange	3	20	--	--	--	--
6. Evidence gathering	--	--	--	--	1	3
7. Track movement of organized crime & organized crime figures	--	--	--	--	--	--
8. Legal advice	3	20	1	7	2	6
9. Legal assistance	4	27	2	13	8	25
10. Prosecutorial assistance	2	13	4	27	7	22
11. Render legal opinions	--	--	--	--	--	--
12. Prepare warrants	--	--	--	--	--	--
13. Use of civil remedies	--	--	1	7	2	6
14. Investigatory assistance	5	33	6	40	9	28
15. Undercover work	--	--	--	--	1	3
16. Manpower	2	13	1	7	--	--
17. Training assistance	--	--	--	--	--	--
18. Audit expertise	2	13	2	13	3	9
19. Unknown	--	--	--	--	--	--
20. None	3	20	2	13	7	22

<sup>1</sup>Number reflects persons alleged by the Project Director to have requested Task Force assistance from the Task Force for 16 specific cases.

<sup>2</sup>Number reflects persons alleged by the Project Director to have requested assistance and/or cooperated with the Task Force for 23 specific cases.

NOTE: Types of assistance listed were voluntarily named by the respondents.