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ORGANIZED CRIME IN SAN DIEGO COUNTY
(An Interim Report)

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Submitted by the 1975-76 San Diego County Grand Jury

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ORGANIZED CRIME IN SAN DIEGO COUNTY

(An Interim Report by the 1975-76 San Diego County Grand Jury)

I. Background

On May 4, 1976, the Grand Jury announced that it was undertaking a study of organized crime in San Diego County. After due consideration of all the factors involved in such an undertaking, it was the Jury's opinion that the study should be made and that the Grand Jury was the appropriate and proper body to conduct such an investigation. The investigative hearings commenced on May 5, consumed 19 days, involved 44 witnesses; the transcript was 1486 pages in length.

The current concern over the impact of organized crime in the County appears to have been precipitated by a speech given on November 18, 1975, by Sheriff John Duffy. The speech entitled, "What? Organized Crime in San Diego County?" as interpreted by the news media and many individuals alleged, in part, that profits from organized crime were being used in the form of campaign contributions to elect city, county, and state officials who were sympathetic to the enactment of laws which would make it easier for their illegal activities to flourish.

A letter to the Grand Jury from Supervisor Jack Walsh, dated November 21, 1975, requested an immediate investigation of the allegations made in the Sheriff's speech. Supervisor Walsh referred to the funding of an Organized Crime Unit in the District Attorney's Office and questioned the effectiveness of this

operation if the Sheriff's remarks were found to be true.

As a result of Supervisor Walsh's letter, the Grand Jury requested a special report on the activities of the Organized Crime Unit of the District Attorney's Office. The Jury reviewed the report furnished by the District Attorney and was satisfied that the Unit was operating effectively. This fact was relayed to Supervisor Walsh in a letter of December 4, 1975, in which it was also stated that he should address Sheriff Duffy directly in order to seek clarification of any specific remarks contained in the speech. The December 4 letter also stated, "It is the view of the Grand Jury that it should not involve itself in public controversy between two elected officials."

This issue was again raised in February, 1976, when the Board of Supervisors initiated a discussion on the desirability of an investigation into organized crime in San Diego County. In subsequent meetings it was determined to proceed with the investigation. There was considerable controversy among the Board members regarding this decision with two members expressing their belief that the Grand Jury was the proper place for such a probe to be conducted.

The situation deteriorated rapidly when both the Sheriff and the District Attorney refused to appear before the Board of Supervisors to testify about organized crime on the grounds that they could not reveal specific information on the subject in a public meeting without seriously undermining ongoing investigations. District Attorney Miller stated that the Board had no legal power to conduct such a probe and both he and Sheriff Duffy refused to answer certain questions put to them in writing from the Supervisors.

On April 27, 1976, the Board of Supervisors, in another controversial action, voted to subpoena the District Attorney and the Sheriff to appear before it on June 21. Both men indicated that they would fight the subpoena attempt in court, thereby setting up a confrontation of major proportions within the County.

It was at this point in time that the Grand Jury initiated discussions regarding the possibility of taking over the investigation of organized crime. Preliminary discussion with some members of the Board of Supervisors, the District Attorney, and the Sheriff all indicated that they would support this procedure. The advantages of such a course of action were many, but there were two basic considerations: First, the removal of the investigation from the political arena was deemed to be imperative. The fact that the primary elections were looming in the near future was not discounted as a possible motive for the probe of organized crime being initiated at this particular time. It was considered this was an issue far too sensitive and much too vital to be tossed around as a political football.

Secondly, the Grand Jury is the appropriate body to conduct such a study with its hearings conducted in secret and its broad subpoena powers, not the Board of Supervisors which is primarily a legislative entity. The confrontation for which County government was heading could serve no constructive purpose. It could only have further disrupted the functioning of County government and have caused greater concern to the citizens of San Diego County as to the wisdom and effectiveness of their elected officials.

In undertaking this study, the Grand Jury's concern was for the welfare of all the citizens of San Diego County who have an absolute right to expect and demand responsible behavior from their elected officials. It is hoped that the initiation of this investigation by the Grand Jury will serve to reassure the electorate of San Diego County that the subject of organized crime, which is of significant concern, is being evaluated and examined by a group of citizens whose motives are not clouded by political overtones.

II. An Examination of Organized Crime

In order to examine and study the possible existence of organized crime, it is first necessary to develop a working definition. With this in mind, the Grand Jury asked each expert witness who testified to give his thoughts and opinions of what could constitute a clear and accurate definition of organized crime as it presently exists.

The following represents a consensus of opinions offered the Jury in testimony, and is the definition accepted for the purposes of this study:

"Organized crime is any group or organization of individuals, operating on a continuing basis, which has as its primary purpose the commission of crimes or the providing of illicit goods or services."

One of the experts testifying before the Grand Jury was of the opinion that the phrase "continuing basis" in the definition should be modified in order to include organized crime groups who operate within a specific time limit, but nevertheless would fall into the generally accepted category of organized crime. The phrase "continuing basis" should not be construed to mean necessarily a permanent organization, but rather a more structured group formed for criminal purposes operating within specific time limitations.

In the minds of most people, the image of organized crime brings to mind the Mafia, the Godfather and other entities of this type whose activities have been widely reported. It is necessary, however, to develop a much broader, more inclusive definition of organized criminal activity in order to include all possible

segments of their operations and their impact on the community.

Insulation from prosecution is a major characteristic of an organized crime operation. This is accomplished mainly by fear and/or corruption. Intimidation of witnesses and fear of reprisal often makes organized crime victims less than willing to come forward to testify. The corruption of public officials is an essential ingredient in the successful functioning of organized crime and can be accomplished either in a direct way, such as the offering of bribes and pay-offs, or indirectly through political contributions with the intent of controlling the official once he is in office. This is not to imply that the mere receiving of a contribution from a person believed to be connected with organized crime is tantamount to corruption. Persons seeking elective office should be alert to attempts to influence them by such donations. Available information indicates that organized crime is concentrating its efforts to corrupt law enforcement at the highest possible level. A corrupt political executive who can block law enforcement efforts is perhaps even more effective for their purposes than a corrupt official in the justice system itself. Organized crime also achieves insulation from law enforcement by way of indifference. Where public officials have beguiled themselves into believing organized crime does not exist, or that it only deals with "victimless crimes," they may become the unknowing allies of organized crime within their community.

Organized crime must have the ability to corrupt officials in order to flourish. Therefore, any lack of enforcement by authorities may be taken as an indication of possible corruption.

A softening of prosecution of the so-called "victimless crimes" may be another warning that organized criminal elements are making inroads into the effectiveness of law enforcement.

One of the major problems facing law enforcement agencies in the combatting of organized crime is that the public in general is ignorant of the impact and seriousness of their criminal activities. Such areas as bookmaking, prostitution, and loan sharking are not recognized by the general public to be as serious a threat to society as are the crimes of murder, robbery and rape, the so-called "street crimes." Many of the goods and services provided illegally by organized crime are desired by the public who can see no great harm in placing a bet with a bookmaker or availing themselves of the occasional services of a prostitute. Changing this attitude on the part of the public will require a major educational effort.

An informed and concerned public will provide the best protection against expansion of organized criminal activities. The public must be made aware of the far-reaching implications and dangers involved if a constant vigilance is not maintained.

Characteristically, organized crime groups participate in illegal activities offering maximum profit at minimum risk of law enforcement interference. They are active in high cash flow businesses such as restaurants, bars, hotel operations and vending machines. The "skimming" operation, which is one of the most profitable illegal activities and a principal means of making money, is particularly well-adapted to this type of high cash flow business. Money which is "skimmed" off the top is obviously unreported income and therefore not taxed. The loss of tax revenue to the government

from such operations is staggering and can only increase the tax liability of law-abiding citizens.

Narcotics trafficking is a major enterprise of organized crime, and San Diego County is particularly vulnerable in this operation because of its convenience and proximity to the border. Too often law enforcement officials concentrate on the crime itself rather than the organization with the result that only the low-level criminals are apprehended and the organization itself is left intact and largely unaffected. Men experienced and trained in fighting organized crime follow the practice of watching the organized crime suspect until he commits the crime, and this would appear to be the only reliable way of tracing illegal operations to their sources. Unless the organization itself is exposed and prosecuted, the illegal operations will continue unabated. It is in this way that the operations of organized crime task forces differ from those of local law enforcement agencies. It becomes obvious that there must be a high degree of cooperation and sharing of information between the various agencies of law enforcement if a program of fighting organized crime is to be successful and effective.

Of necessity, law enforcement must engage in intelligence gathering activities. It may take months, even years to properly evaluate a criminal scheme and to apprehend the guilty and clear the innocent. The intelligence function is a legitimate aspect of law enforcement. To the extent it poses risks of impinging on individual privacy, law enforcement officials must institute safeguards to assure the reliability and security of the data as well as the legitimate use of such data.

The areas of "white collar crime" are another stronghold of organized crime. The professional-type criminal is becoming more common, and there is evidence of criminal organization in such crimes as planned bankruptcies, stock frauds and extortions. Tremendous investments in land and properties are being made through legal transactions, but in many cases with funds derived from illegal organized crime operations. Institutional investments are often made by entities known to be affiliated with organized crime, and some trustees of union pension funds have criminal connections. The infiltration of labor unions has proven to be a most profitable move for organized crime elements, placing at their disposal the vast sums of money accumulated in the various union pension funds by the contributions of hard working, honest union members.

Another area considered as included in the category of organized crime would be alien smuggling, which is a problem of major proportions in San Diego County. This problem lies in the province of the Federal government and there are clear indications that there is much room for improvement in Federal enforcement in this area. The alien smuggling operation contributes greatly to the problems of local law enforcement agencies. Testimony received indicated some illegal aliens bring supplies of narcotics with them when they enter the country, and it can be speculated that organized crime elements could well profit from this never-ending source of smuggled illicit drugs.

Certain motorcycle groups can also be included in organized crime activity as they have been found to be active in criminal areas such as burglary, fencing, etc.

Gangs operating within the confines of jails and penitentiaries are also a form of organized crime. The prison gangs are a powerful force and often exercise great control over activities within the prison and among the prisoners. The structured organization of these prison gangs has an apparently direct correlation to the structure of organized crime units operating in society. As stated by the District Attorney in a letter to the Governor dated April 22, 1976, portions of which are quoted:

"It recently came to my attention that the Adult Authority has for a period of time been paroling members of identified prison gangs to San Diego County.

"My investigative staff has determined that more than forty members of such prison gangs have been paroled to this community, and to my surprise paroled at their request.

"I am writing to you to express my concern that the Adult Authority in this State would undertake first of all to parole persons who are members of identified criminal organizations existing within the prison system. Secondly, I am further concerned that the State of California would permit persons such as these to select the place to which they want to be paroled. It should be obvious they desire to continue their criminal enterprise outside of the prison walls....

"Of the forty prison gang members who have been paroled to this community, thirteen have been arrested thus far and charged with felony offenses. Of those arrested, two already have been returned to state prison. One is in prison in Mexico. One is in custody in another state. The remainder are awaiting trial. The crimes for which these persons have been arrested, charged and convicted include robbery, burglary, possession of weapons and mayhem...

"Our studies of the prison gang system indicate members of the gangs were originally sent to prison for charges such as robbery, assault with a deadly weapon, first degree burglary, narcotics possession and other serious felony offenses. Obviously, these people pose a grave threat to the safety of

our community. More perplexing, however, is the fact that local law enforcement, agents of the State of California and the Department of Corrections have had to form a task force in an attempt to return to prison those felons, known members of prison criminal organizations, who have been returned into our community at their request."

In its dealings with criminal elements, it should be pointed out that the police are at a tremendous disadvantage. The criminals can operate by their own rules when the forces of law and order must operate under the restrictions of court orders, rulings, and legislation. The absence of laws permitting court-authorized wiretapping can only serve as a tremendous boon to those operating in illegal activities and is a further hindrance to law enforcement.

The wide use of probation and rehabilitation, due in part to the overcrowded condition of jail facilities, further contributes to the complex problems facing police. The only way to insure that a criminal has stopped his illicit activities is to imprison him. Statistics reflecting the dismal failure of most rehabilitation efforts can only attest to this fact.

In organized crime operations there are no written contracts or agreements. Arrangements are made and consummated by a handshake -- and enforced by violence. The telephone is widely used to conduct criminal activities. The absence of a California statute providing for court-authorized electronic surveillance presents a serious problem to those charged with fighting organized crime.

An aura of respectability is greatly sought after by organized crime figures. It is not uncommon to find persons with criminal affiliations to be involved in various civic and philanthropic activities and to be major contributors to charitable causes.

There is, of course, great danger inherent in this infiltration of persons with reputations or documented histories of illicit activities into the most respectable, civic-minded segment of society. It is a well thought-out device by organized crime elements to associate themselves with the most prominent and highly respected groups in a community in order to project an image of substantial, law-abiding citizens, and the projection of a prosperous, successful, civic-minded image is of tremendous advantage to those operating within the sphere of organized criminal activities. While the causes with which these individuals associate themselves are most worthwhile, extreme caution must be exercised in placing persons with questionable backgrounds into positions of public trust and prominence.

It must be recognized that it is organized crime's accumulation of money, not the individual transactions by which the money is accumulated, that has a great and threatening impact on America. Organized crime does not seek to compete with legally established government but rather to nullify it. When an official is placed in public office by organized crime elements, the political process is nullified. The bribing of a police official nullifies law enforcement.

The vast amounts of money available to those in organized crime provide the power to continue its existence and expand its base of operations.

III. Procedure for Investigation

The Grand Jury initiated its investigation by discussing with the Chief Deputy District Attorney procedures to be followed, limitations imposed, and witnesses to be called. It was agreed that the District Attorney would assist the Grand Jury by inviting or serving subpoenas to witnesses, questioning witnesses based upon specific questions, or lines of investigation developed by the Grand Jury, and, as appropriate, providing the services of investigators from the District Attorney's Office. The authority for the investigation lies within the provisions of California Penal Code Section 917 dealing with possible public offenses; Penal Code Section 919(c) dealing with willful or corrupt misconduct by public officers; and Section 928 dealing with the method or system of performing the duties of the several offices of the County as well as the needs of County officers.

As the District Attorney's Office is one of the major elements in operations against organized crime, it was necessary to anticipate procedures to be followed in the event it appeared that Office should no longer continue in the role of legal counsel and assistant to the Grand Jury in this investigation. If that unexpected event were to occur, the Grand Jury determined to follow the procedure prescribed by law and to request the assistance of the Attorney General of the State of California. This decision rested solely with the Grand Jury.

In determining to undertake this investigation, the Grand Jury recognized its limitations both as to time and ability. Timewise the normal term of the Jury would expire on July 1, 1976, less than

two months from the date it initiated the investigation. It did rest within the authority of the Presiding Judge of the Superior Court to extend the term if it should appear necessary. In fact, in order to complete the investigation, prepare the report, have it reviewed by the County Counsel and to allow time for reproduction and distribution, it was necessary to request the Presiding Judge to extend the term for nine days. The Jury also recognized that the problem of organized crime was not a simple one which could quickly or easily be understood or solved. The Grand Jury appreciated that it could not turn itself into a police agency to run down criminals.

Further, we fully realized that many of the files of law enforcement agencies dealing with organized crime contain sensitive intelligence matters. To the largest extent possible, this investigation did not involve itself in the details of individual investigations, unless it was necessary to determine in specific instances whether a public offense had been committed or whether evidence or corruption of local officials had been presented. The Grand Jury believed that substantial information could be provided by state and local agencies to answer the questions presented without identifying specific alleged criminals or compromising the confidentiality of their law enforcement files in a sensitive area.

Based upon all these considerations, we determined to first question a series of witnesses for the two-fold purpose of determining what the elected officials of our County thought the problems were, and at the same time to broaden our knowledge and

background on organized crime. To insure that we did not just receive a parochial view, witnesses from both federal and state governments (The Assistant Director, Department of Justice, Organized Crime and Criminal Intelligence Bureau, and the attorney in charge of the Los Angeles office of the Organized Crime Strike Force of the United States Department of Justice) were invited to appear before the Grand Jury. Each was called to present his views of the presence of organized crime in San Diego County, how well local officials were handling the problem, and to provide recommendations on how San Diego County could improve its control of organized crime. Additionally, discussions were held with the local office of the Attorney General of the State of California.

Our initial objective was to answer the following questions:

- (1) Is organized crime present in San Diego County?
- (2) What is the nature and extent of organized crime influence in the County? Is there evidence of corruption of public officials by persons or entities involved in organized crime?
- (3) What steps are being taken by county officials to deal with the organized crime problem?
- (4) What are the needs of county government in order to deal with organized crime?

Certain administrative matters were established with the approval of the Presiding Judge of the Superior Court. Testimony was to be taken under oath, and a transcript would be made of all testimony. To protect both the innocent and the confidentiality of sensitive intelligence matters, only an original and two copies of the transcript would be prepared and these would be retained under the control of the Foreman during the investigation and preparation of the report, then to be returned to the Presiding

Judge for appropriate action. Later in the investigation it became apparent that there was a need for additional professional assistance by accountants to audit the accounting for and utilization of public monies used against organized crime. While it was possible to use the County Auditor for this examination, the Grand Jury rejected this course of action for several reasons. The County Auditor is capable and had the ability to conduct the required audit. However, the Jury considered it significant that such an audit had not been previously conducted. Perhaps it had never been requested but in view of the fact that several Supervisors had expressed concern on how the money appropriated to fight organized crime was being utilized, the Jury believed that it was desirable to use an independent accounting firm which had readily available specialized consulting expertise and previous experience in the required fields. Lastly, while it cost a significant amount of money to use an independent audit firm (the Board of Supervisors had authorized the requested amount of money up to \$10,000) there would also have been considerable cost to have used County personnel and facilities. How much cannot be determined. We also considered that if the County Auditor had programmed his staff to its full capability, as might be expected, then other required audit activities would suffer. The Presiding Judge of the Superior Court approved this procedure, authorized the Grand Jury to administer an oath of secrecy to auditors involved, and provided procedures which would allow the sealing of supporting papers developed during the course of the audit.

It should be noted that it would have been impossible to accomplish this investigation without the full support of the

Presiding Judge of the Superior Court, the Board of Supervisors of San Diego County, and the outstanding cooperation of the District Attorney, Sheriff, and their respective staffs.

As had been anticipated, we heard allegations or concerns expressed by witnesses which indicated areas of further, more specific investigation. In every case where the Grand Jury thought there was merit to the allegation or concern, it caused it to be investigated and heard testimony which answered the concern, and either proved or disproved the allegation.

One matter of considerable significance was the uniform concern expressed by the members of the Board of Supervisors who appeared before the Grand Jury as witnesses. This was directed to the considerable sums of money from federal, state and local sources allocated for use against organized crime. The question was: Is this money properly being accounted for and effectively utilized? The latter question was difficult if not impossible to adequately answer. Our expert witnesses, men who had devoted a lifetime to the reduction or the destruction of organized crime, were quick to point out that there are not established indicators of efficiency in this matter. There is no way to simply count the number of convictions, and state whether the operation was a success or a failure. One expert reported to the Grand Jury that four years were spent getting a conviction of an organized crime figure, who was sentenced to three years in prison. Yet the effort was considered well worthwhile because of the "ripple effect" on organized crime.

Regardless of these limitations, the Grand Jury insisted that the auditors examine the expenditure of funds to ascertain, if

possible, whether there were duplication, inefficiency, and whether the funds were being well spent. Fortunately the auditors were experienced in government audits and had some experience in evaluating actions against organized crime.

IV. Discussions and Findings

As stated in Section I, the ignition point on the question of the presence and influence of organized crime in San Diego County was a speech given by the Sheriff on November 18, 1975, and repeated with little modification several more times. A careful perusal of this speech reveals that it is subject to interpretation. The Sheriff's position was that he was not referring specifically to San Diego County when he stated "... organized crime is using the profits from its illegal activities washed clean through its business interests, in the form of campaign contributions to elect officials in city, county, and state government; officials who have what organized crime feels is the proper sympathetic attitude toward the enactment of laws and the enforcement of laws which most affect their illegal activities." Nevertheless, he did state that he had clarified this point to the news media. If that is so, it obviously did not cool the fires of antagonism which the speech appeared to have fanned. Others, predominantly those in the political arena, chose to read an indictment into the Sheriff's speech and pressed for specifics as to the presence of organized crime in the County and the degree to which public officials had been corrupted; or if that were not possible, for clarification of the allegation which they read into the speech.

Here it should be categorically stated that only one of the many witnesses who appeared before the Grand Jury, from law enforcement officials, extending through the hierarchy to federal and state officials, with careful attention to the Sheriff and District Attorney, testified to being knowledgeable of any evidence of

corruption of public officials by persons or entities involved in organized crime, or by any other persons or entities. This one witness made allegations against public officials based upon suspicions and certain events. These allegations only bordered on the fringe of what might be considered organized crime. However, to be absolutely certain the Grand Jury determined to investigate the matter. From the lengthy testimony heard by the Grand Jury, it could only conclude that there was at this time no known influence by organized crime in San Diego County. It should be stated that the key word is "known." Our findings should not be considered as an absolute certification of each and every official in this large and complex county. We of necessity had to depend upon the testimony of the city, county, state and federal officials who are engaged in the war against organized crime.

As a related matter, many of the public officials who testified before the Grand Jury stated that in reviewing the lists of those who had contributed to their campaigns, it was obvious that known or suspected crime figures and entities had in fact been among their contributors. According to testimony received such figures frequently have contributed to opposing candidates running for the same office. Some of those who accepted such contributions stated they did so through ignorance, others accepted contributions from organized crime figures knowingly. The Grand Jury appreciates that it is a hard line to draw; the fact that a person has had a previous conviction and criminal associations should not in every case preclude officials, while running for public office, from accepting proffered financial support. In other cases, a law enforcement

officer, with full knowledge of the background of these individuals and entities, and a full appreciation as to the possible effect of such contributions on his future ability to enforce the law and fight organized crime, can only be suspect for accepting such financial support. While there may be no system to prevent this danger, it is possible for a candidate to check with the Office of the District Attorney for advice on any donations which might be tainted. However, laws governing libel and slander may preclude law enforcement officers from commenting about questionable contributors. Similarly, the security of on-going investigations cannot be compromised even by confidential responses to such inquiries. Fortunately, the publication of lists of contributors to political campaigns should, in part, obviate these complex problems. It is the Grand Jury's understanding that in the current campaign (June 8, 1976 election) at least one of the candidates for the office of Supervisor is checking with the Sheriff's Intelligence Unit on questionable political contributions. The Grand Jury suggests that the news media carefully review the San Diego County Fair Practices Form No. 420 of each candidate in San Diego County and publish the information should donations be made by known organized crime figures and entities.

It appears to the Grand Jury that once the Sheriff realized the impact his speech was having on the political life in San Diego County, he should have taken more vigorous steps to ensure that his precise meaning was clear and that he was not stating that public officials in San Diego County had been corrupted by organized crime.

In late February, the news media reported that the Sheriff had furnished an affidavit (declaration) filed in the case of Rancho La Costa, Inc., et al v. Penthouse International, Ltd., et al concerning a Penthouse Magazine article containing allegations that organized crime members were associated with the La Costa businesses and development. The Sheriff's declaration includes the following: "... I have stated publicly in the past, and I state again for the use of this Court that La Costa and the La Costa development has been routinely scrutinized by the San Diego County Sheriff's Office for many years. No evidence of criminal activity by La Costa or the management of La Costa of any kind has ever been detected at the resort." A copy of this declaration was entered into evidence to the Grand Jury. The incongruous position of the Sheriff trying "to get the attention of the public, the news media, and our local legislators on this serious problem in our community ... the serious problem of the very real existence of organized crime in San Diego County" certifying that a business with alleged organized crime connections had "no evidence of criminal activity," is hard to understand, and even harder to justify. The explanation given was that "[he] could hardly refuse to put into writing and under oath what [he] had said publicly..." It was explained that officials of this business entity had supported charitable organizations, including the Explorer Division of B.S.A. The Sheriff gave the impression that he had some second thoughts about this action and would in fact have preferred to have used a modifying phrase, but was talked out of it. It is the Grand Jury's opinion that if the affidavit had been given as a result of a legal process, it would have been understandable, but to have given it voluntarily was an error of major proportions. The impact of this ill-conceived action was several fold. Perhaps the most serious was that the

nomination of the San Diego County Sheriff's Office to become a member of Law Enforcement Intelligence Unit was delayed for at least one year. In effect, this denies the Sheriff's Office, which is and should be heavily engaged in the battle against organized crime, a ready and rapid flow of intelligence on organized crime. While it is true that intelligence can ultimately be obtained through other channels, its ready availability is significantly reduced. Secondly, it casts a shadow of doubt on the integrity of the Sheriff, one of the key members in the forefront of the forces against organized crime. While it is commendable to stand by one's friends, those who serve in positions of public trust must, like Caesar's wife, be above reproach. The Sheriff would do well to re-examine his relationship with known and suspected organized crime figures. The third harm appeared in the testimony that the action of providing this affidavit had an adverse influence on the relationships between the Sheriff's Office and other law enforcement agencies. To quote one witness, "The affidavit caused problems in the intelligence community -- it brought the credibility (of the Sheriff's Department) into question." It is the opinion of the Grand Jury that the effective operations against organized crime depend heavily upon the closest possible coordination and cooperation between the various agencies involved. Any action which impacts on these relationships can only be judged to have had an adverse effect.

The answer to the question, "Is organized crime present in San Diego County?" has to be yes, it is. The next question becomes: To what degree? Here it depends upon who is testifying. Where all levels of law enforcement were in agreement that there is organized crime in San Diego County, those operating at the city and county

level were more optimistic, as one might expect, about the success of efforts to identify, destroy and prevent organized crime operations. Those who do battle daily are more likely to believe their efforts are successful than those slightly removed from the battle. State and Federal officers were more conservative in their evaluation of organized crime fighting efforts than were local officers. Indeed, all organized crime control officers appeared to share some cynicism in this regard. State and local officers complained about the absence of vital tools: court-authorized electronic surveillance, statutes providing for use immunity rather than transactional immunity, and the subpoena power of investigative grand juries.

There are organized crime activities, known organized crime figures, legitimate businesses with organized crime connections, and the whole spectrum of indications that organized crime is present in the area. As the head of one intelligence element stated, "Organized crime figures have moved into Southern California in the last few years." This opinion was substantiated by other witnesses. Unfortunately it appears that even criminal elements are attracted by the well-known advantages of Southern California life. The degree to which they remain visitors, and not participants in organized crime will be based on how they evaluate the climate for organized crime activities. However, it was the opinion of the many witnesses that by comparison with other areas, the infection spread by organized crime has not yet reached a dangerous degree, if there be degrees of danger. Conditions are not right in San Diego County for the wholesale move-

ment of outside organized crime into the area.

It has been testified that there is less organized crime in California than in any other state due principally to the superiority of law enforcement agencies in the State. California has long been regarded nationally as outstanding in the quality and performance of its law enforcement. There have been indications given the Grand Jury that San Diego law enforcement on the whole is doing an excellent job.

Until there are clearer indications of serious corruption, it will be only possible for limited penetration of organized crime into the County. Because the presence of organized crime is now limited, the citizens of this community cannot become complacent or self-satisfied. Any defense against organized crime must commence with a knowledgeable, alert, and determined public. It must be fully aware of the conditions which breed organized crime, and be determined that such conditions will not be tolerated. There is no simple, convenient or effective remedy for the disease of organized crime. It is a disease that in all likelihood will never be completely eradicated. It can only be controlled and constantly guarded against. If the barriers are ever let down, the power of organized crime will sweep into our County with a disastrous effect.

In the course of the investigation, the Grand Jury was briefed by a series of individuals from the City of San Diego Police Department, the Sheriff's Intelligence Unit, the District Attorney's Organized Crime Unit, and others on the specifics of organized crime in San Diego County. It was obvious that a concerted effort

is made to learn, monitor, and, if possible, prosecute organized crime activities within the County. However, it must be appreciated that organized crime is not constrained by political boundaries and operates freely throughout the United States. This dictates that the closest possible cooperation and coordination be maintained between all elements of the police and prosecution agencies at city, county, state and federal levels. It also demands an effective and secure intelligence system to counter the threat. A major element in this intelligence effort is the Law Enforcement Intelligence Unit (LEIU), which was established in California in 1956 and now has expanded its membership throughout the Nation.

From the information provided the Grand Jury, it became apparent that much is known by the law enforcement forces about organized crime in San Diego County. Without going into specifics in order to protect current intelligence activities, the Grand Jury was briefed in considerable detail and provided diagrams of the interlocking activities of several large organized crime groups. How much is known, and whether complete information is available is difficult, if not impossible, to evaluate. Organized crime does not remain static; daily, if not hourly, the situation changes. The Grand Jury is of the opinion that the steps being taken by county officials against organized crime are at this time adequate and effective. However, certain recommendations for improvements are contained in Section V, Recommendations. As has been pointed out several times, the Grand Jury of necessity had to rely on the opinions and testimony of those qualified on the subjects of organized crime and law enforcement. An advanced copy of an Evaluation Report from the Organized Crime and Criminal Intelligence Branch of the Division of Law

Enforcement, Department of Justice, dated April 19, 1976, made available to the Grand Jury provided an appraisal of the District Attorney's Organized Crime Unit. It is quoted below:

"It is the opinion of the evaluation staff that the San Diego County Organized Crime Prevention Program and the Unit established to accomplish the project objectives have achieved the major purposes described in the grant application and the Unit has demonstrated its effectiveness as a county-wide deterrent in the fight against organized crime."

It is the duty of every citizen to demand that public servants at all levels exert every effort to control and eliminate organized crime. The alternative is an infection which will reach into every aspect of our lives and be impossible to eradicate.

The next question to be answered was: What steps are being taken by county officials to deal with the organized crime problem? Here the answer becomes more difficult to provide. The view of the Grand Jury was from one side of the battle line; it is not possible to achieve an overall view which would encompass all aspects of the forces of law and order arrayed on one side, and the forces of organized crime on the other. Nor is either side deployed so as to be visible. The "good guys" range from the police officer on his beat to the complicated organizations at the national level, and all levels in between. They include intelligence agencies, which are not and must not be visible; narcotics task forces, and other enforcement divisions which devote their time to apprehending those involved in the many other activities which are both related to, and yet are sometimes separate from, organized crime. It is safe to say that crime organizes whenever the conditions are favorable, the profits high enough. The crime organization can be relatively modest, or strong and powerful. Whatever its

activity, size and strength, its primary objectives are to make money and to remain undetected; or if detected, to be able to sacrifice only its most expendable members and to protect its highest members. For this reason the only observation which the Grand Jury could make of organized crime was through the eyes of the various officials who testified before it. It was the Jury's belief that it was given an objective view. As previously stated, it was for this reason that the Jury decided to have the opinions of many officials from the local to the state and federal levels. While certainly there were variances in their opinions as to how well the agencies of the county were doing against organized crime, the concensus was that they are effective. From the various recommendations received, it is obvious that improvements can and should be made. It is always possible to do better. Yet the evaluation of county agencies was generally excellent.

With reference to the audit as previously discussed on pages 16, 17 and 18, the firm of Peat, Marwick, Mitchell & Co. has furnished the Grand Jury its evaluation and findings as a result of this audit. As anticipated it was not possible for them to evaluate the efficiency of anti-organized crime operations within San Diego County, within the time frame and given the limitations for their review. Nevertheless they were able to provide a breakdown of those funds which had been expended over an approximate three-year period in the battle against organized crime. In reviewing these figures it should be noted that the auditors, of necessity, were required to accept the definitions used by the District Attorney's Office and the Sheriff's Department

as to what resources were actually being devoted to operations against organized crime. It should also be noted there were no common criteria for the allocation of funds. This is as might be expected as one office is devoted to the apprehension of criminals, the other to the prosecution. It is therefore not surprising that different views are held. A specific recommendation has been made in the report for the District Attorney and the Sheriff to develop a common understanding of criteria for organized crime activities. Further, as stated in the report these sums do not identify other costs which could well be attributable to anti-organized crime operations such as general office and County overhead, the cost of using County equipment, non-identified assigned personnel, etc.

This audit report did find that by the mere presence of organized crime prevention units in the District Attorney's Office and the Sheriff's Department, there is a clear indication that the local government has made a continuing commitment to fight organized crime in San Diego County and to cooperate with other agencies throughout the nation in their efforts. Additionally, both the Sheriff and the District Attorney have established training programs for their personnel concerned with organized crime prevention. It further stated the District Attorney and the Sheriff shared intelligence information on organized crime activities. The complete report is attached as Enclosure 1 and should be reviewed by those concerned in its entirety, specifically the recommendations contained in Appendix B of the subject report and repeated in Section V, Recommendations.

As stated in Section III, Procedure for Investigation, in the course of the testimony the Grand Jury heard, there arose allegations, concern or complaints. In each case the allegations, concern or complaints were investigated and testimony heard as well as evidence introduced. These allegations (to use a term which will cover each of the above categories) covered a wide spectrum of indicators that either public officials were corrupt, illegal procedures were being followed, or that might indicate that public officials had connections with organized crime. Numbered bank accounts, elected officials receiving bribes, illegal wiretapping and surveillance by deputy sheriffs, inadequate prosecution of criminals, and false testimony were but some of the allegations. In addition to the allegations of witnesses, the Grand Jury received documents in the mail which contained "information" or allegations on organized crime. Many of these were from anonymous sources. Again, each was investigated to the extent possible and carefully considered by the Grand Jury. In one case the information was considered to have sufficient validity to merit its being turned over to public safety intelligence units for future use. All this effort did not develop one provable, or prosecutable, case. In many of them there was a fragment of truth, but in the telling and retelling (perhaps in some cases due to malice), the facts became distorted. Once again, ill-considered statements by police officials, associations with known organized crime figures, stupid jokes, or unfounded suspicions were the root of these allegations. The Grand Jury must again issue a disclaimer that it is not certifying that no illegal actions have

taken place. It can only state that based upon an adequate investigation and from the evidence it saw and the testimony it heard, either the allegations made were without foundation or could not at this time be made the basis for criminal prosecution.

As a result of the investigation, it became evident from several indications that improvements were needed. The District Attorney became aware that his various offices throughout the County were not in every case following his policies, particularly in regards to prosecutions of vice cases. The Grand Jury has assurances that increased supervision will remove this problem and therefore makes no recommendation. As a related matter it became obvious that where coordination meetings are frequently held between the District Attorney's representatives and the San Diego Police Department, there is not the same tight tie between the District Attorney's Office and the Sheriff's Department. Once again, we believe that this matter has been rectified and therefore make no recommendation. There obviously are different perspectives between the personnel who apprehend criminals, and those who must determine if it is possible to get a conviction in accordance with the law. The closest possible cooperation and interchange of information is essential if schisms are not to develop. The Grand Jury also received indications that the flow of information within the Sheriff's Department is not as effective as might be desirable. This is a matter of constant supervision and without making a specific recommendation in this matter, we would hope that the Sheriff would take steps to ensure that information reaches the level where it is required.

One specific allegation should be addressed separately. One witness charged that the District Attorney's Office had at one time committed subornation of perjury. At this point, the Chief Deputy District Attorney stated that further investigation in this aspect of the investigation should be handled by the Attorney General's Office; the Grand Jury agreed. A conference was held with Mr. Wells Peterson, Deputy Attorney General, and the procedures to be followed were agreed upon. The witness's allegation against the District Attorney's Office had already been carefully explored, having been referred to the 1974-75 Grand Jury. It had also been investigated at that time by the Attorney General. Both the previous Grand Jury and the Office of the Attorney General had found that the allegation was without merit, and took no further action. This Grand Jury heard enough evidence to satisfy itself that there was no substance to the allegations against the District Attorney and then dropped the issue concurring with the previous Grand Jury that there was no cause for further action. Where the allegation was ill-conceived and without merit, the incident did serve to remove any blemish in the matter from the District Attorney's Office, and to establish the value and integrity of the system in which the Attorney General's Office rapidly and effectively steps into an investigation on the slightest indication that the Office of the District Attorney could no longer proceed.

V. Recommendations

a. General

As stated in Section III, Procedure for Investigation, one of the questions which the Grand Jury considered must be answered was, "What are the needs of county government in order to deal with organized crime?" Obviously, much time, effort and money would have been wasted if specific recommendations could not be developed. It soon became apparent that we could not just address the one political entity and fully discharge our responsibilities. Actions against organized crime must be taken at the city, county, state and federal levels, and must of necessity include actions by non-governmental groups, such as the news media, if there is to be any possibility of success. Therefore, with full realization that the Grand Jury's recommendations will have no legal effect upon other than county government, but with confidence in the judgment of our fellow citizens both inside and outside of government and at the several governmental levels, we have made recommendations to other than county entities. We have done so only in an earnest desire for the public good. Many of the recommendations will require legislative action, either to change existing laws, or to pass new ones. Where our recommendation is directed to the Board of Supervisors of San Diego County, it is hoped that all government officials within the County will support this necessary political action by making their views known to the members of the State Legislature in Sacramento who represent this area.

As organized crime takes on many forms and uses every possible device to cloak its activities in secrecy, the Grand Jury cannot make specific recommendations as to each and every crime. "A clean county" does not provide conditions conducive to organized crime. San Diego County being adjacent to Mexico has unique and unusual problems, particularly with narcotics traffic. It is possible through constant and careful actions to limit and minimize conditions which would attract organized crime. Community activities must be carefully monitored. For example: rapid population growth in San Diego County has made real estate construction investments an attractive proposition for organized crime; the collapse, or potential collapse, of large financial empires which provide avenues of migration for organized crime figures; the presence of a large race track presenting a unique source of organized crime activities; and the purchase of large land holdings through corporate fronts also attract organized crime. Adding these to well-known areas for organized crime operations such as gambling, bankruptcy, frauds, pornography, loan sharking, prostitution (massage parlors), labor racketeering, infiltration into legitimate business and "white collar" crime, one appreciates the magnitude of the areas which must be carefully controlled. Laws which require stringent licensing, control of land use, publication of names of political contributors, high bail bonds, determined prosecution, and firm sentences are examples of actions which will have a deterring effect on organized crime.

To determine what was needed to deal with organized crime, each of the qualified witnesses during the course of the investigation

was asked for specific recommendations as to how law enforcement agencies could improve their operations against organized crime, what additional resources were needed, and what new or revised legislation was required to support effective operations. Many of the following recommendations are a result of these opinions. Other recommendations flowed from the President's Commission on Law Enforcement and Administration of Justice Task Force Report on Organized Crime, which were supported by testimony of law enforcement and legal officials and which have local application.

Certain of the recommendations call for the expenditure of public monies for equipment or additional personnel. While this Grand Jury has repeatedly taken a strong position for economy and efficiency, it is our conviction that in fighting crime, economies which prevent effective actions are not economies at all. A crime-riddled or-dominated society is a price which is too great to pay. Therefore, the carefully allocated and monitored expenditures of money to fight crime are an absolute necessity.

b. Corruption

There can be no doubt that organized crime requires an atmosphere of corruption in order to operate. Therefore, along with effective and efficient law enforcement, it is paramount that public officials not be corrupted. Careful compliance with existing political codes which impose restraints and require the publication of information as to contributions will do much to reduce this possibility.

Using extracts from the President's Task Force Report, Organized Crime 1967, "the purpose of organized crime is not competition with

visible, legal government but nullification of it...All available data indicates that organized crime flourishes only where it has corrupted local officials...Organized crime currently is directing its efforts to corrupt law enforcement at the chief or at least middle-level supervisor officials...To secure political power organized crime tries by bribes or political contributions to corrupt the non-office-holding political leaders to whom judges, mayors, prosecuting attorneys, and correctional officials may be responsible."

RECOMMENDATION 1: THAT THE BOARD OF SUPERVISORS ESTABLISH A TASK FORCE OR COMMITTEE FOR THE PURPOSE OF CAREFULLY REVIEWING EXISTING CODES AND LEGISLATION TO ENSURE THAT EVERY POSSIBLE SAFEGUARD HAS BEEN ESTABLISHED AGAINST THE CORRUPTION OF ELECTED AND APPOINTED OFFICIALS, THAT UPON THE COMPLETION OF THIS REVIEW IT ENACT SUCH LEGISLATION AS IS NECESSARY.

The recent indictment of a labor leader and former County Planning Commissioner for conspiracy and bribery indicates that members of the Board of Supervisors are not discriminating enough when making appointments to various boards, commissions and other agencies which are capable of exerting great power which could benefit organized crime. Accordingly, the Grand Jury recommends:

RECOMMENDATION 2: THAT THE MEMBERS OF THE BOARD OF SUPERVISORS EXERCISE GREAT CARE IN SELECTING AND NOMINATING MEMBERS TO SERVE ON THE VARIOUS APPOINTIVE BODIES WITHIN THE COUNTY, WHILE NO INFLUENCE SHOULD BE EXERCISED ON THEIR APPOINTEES, IT IS RECOMMENDED THAT PERIODIC EVALUATIONS OF THEIR PERFORMANCE BE MADE BY THE SUPERVISORS TO INSURE THAT THEIR APPOINTEES ARE DISCHARGING THEIR DUTIES AND RESPONSIBILITIES IN A CONSCIENTIOUS MANNER FREE FROM OUTSIDE INFLUENCE AND PRESSURE,

Recognizing that it is not possible to enact a law to prevent every possible contingency of corruption, it is necessary that each elected, salaried or appointed official exercise prudent and sound judgment to avoid even the appearance of corruption. Our investigation clearly indicates this has not always been true in the past. Recognizing that the District Attorney and the Sheriff cannot compromise the security of investigations nor violate libel and slander laws, the Grand Jury recommends:

RECOMMENDATION 3: THAT ALL CANDIDATES OR ELECTED OFFICIALS CAREFULLY CHECK ALL CONTRIBUTIONS TO THEIR CAMPAIGNS AND, WITHOUT EXCEPTION, REFUSE CONTRIBUTIONS FROM KNOWN OR SUSPECTED ORGANIZED CRIME FIGURES OR ENTITIES; IN CASES OF DOUBT, THE ISSUE SHOULD BE RESOLVED IN FAVOR OF PRUDENCE; AND, IF ADDITIONAL INFORMATION IS NECESSARY, IT SHOULD BE REQUESTED FROM EITHER THE DISTRICT ATTORNEY'S ORGANIZED CRIME UNIT OR THE SHERIFF'S INTELLIGENCE UNIT ON A CONFIDENTIAL AND INDIVIDUAL BASIS.

It is recognized that it is good law enforcement practice to "know your enemy" and that contacts with criminals, known or suspected, are a necessary part of police work. Yet the Grand Jury has received indications that in the past the relationships between organized crime figures and officials in San Diego County were closer than required. Specific examples are the affidavit given by the Sheriff in the lawsuit between Rancho La Costa, Inc. and Penthouse International, Ltd. (refer to page 22), and the acceptance of charitable contributions from the same entity. While there may be no such thing as "dirty money", and it is necessary to raise funds to support charities, the aspect of senior law enforcement officials in such close contact with identified organized crime figures is not one conducive to a feeling of confidence.

RECOMMENDATION 4: THAT ALL ELECTED, SALARIED AND APPOINTED OFFICIALS, PARTICULARLY LAW ENFORCEMENT OFFICERS, AVOID ANY CONTACT WITH KNOWN ORGANIZED CRIME FIGURES OR ENTITIES, EXCEPT AS REQUIRED STRICTLY IN LINE OF THEIR DUTIES.

c. Operational Procedures

Under the heading "Operational Procedures" we consider it necessary to first address our successor Grand Juries. While it is clearly stated in our Final Report that at times we felt pressed by the tempo of our operations, with hindsight we believe that our Grand Jury could have devoted more time to the question of organized crime. We believe that each Grand Jury should devote a significant amount of its time to this area, which threatens the very structure of our society, to insure that effective operations are being conducted to control this ever-present menace. Early in its term, each Grand Jury should be given an overview of the presence of organized crime in San Diego County by the District Attorney and the Sheriff. We then believe each jury should concentrate on one or more aspects of organized crime and assure itself, and the public, that at least in that area organized crime is being controlled. Obviously, each jury should select a part of organized crime which had not been recently reviewed. In that way the entire spectrum of organized crime would be carefully examined every few years.

RECOMMENDATION 5: THAT EACH GRAND JURY COMMENCE A GENERAL REVIEW OF ORGANIZED CRIME EARLY IN ITS TERM AND THEN TAKE A SPECIFIC AREA TO INVESTIGATE IN DEPTH DURING THE BALANCE OF THE YEAR. THERE SHOULD BE A REVIEW MADE OF PREVIOUS GRAND JURY REPORTS AND RECOMMENDATIONS ON THIS SUBJECT INCORPORATED INTO ITS REPORT ON ORGANIZED CRIME ACTIVITIES.

In our Final Report, San Diego County Grand Jury 1975-76, we recommend the Board of Supervisors and the Superior Court support legislation authorizing the impaneling of two or more grand juries as needed in California counties. Each county should be free to select the grand jury system which best suits its needs, and which is most economical. (See Recommendation 12 in our Final Report.)

The 1967 Task Force Report on Organized Crime recommends that local jurisdictions impanel "investigative grand juries" for organized crime cases. Our review of organized crime in San Diego shows that more than one grand jury panel may be needed if the grand jury is to successfully perform its indictment functions, government operations "watchdog" functions, and the organized crime investigation which we recommend. The organized crime investigations should be conducted by investigative grand juries like those authorized by federal law.

The organized crime investigation may well include case presentations. Organized crime cases can be tedious, complex and time-consuming. A special "investigative grand jury" devoted solely to organized crime investigations may someday be necessary. However, the function can be performed by either of two grand juries, or by either of two panels of the same grand jury. One could perform the watchdog functions and the other perform the criminal case indictment function. Problems in selecting which panel should perform organized crime investigations can be burdensome. The solution we recommend is the establishing of more than one panel of the same jury as dictated by the needs of our community. Upon

application of the District Attorney and/or the grand jury panel or panels currently in session, the Superior Court should be authorized to select another panel of grand jurors. Each panel selected should, of course, perform all grand jury functions until it becomes clear that a second panel of grand jurors is needed. The second panel of grand jurors should be authorized to perform any of the functions performed by the first panel but should begin with designated tasks. The assignment of tasks should be done with a clear view of the needs which required the establishment of a second grand jury panel. For example, if panel one has been burdened with criminal cases and unable to devote sufficient time to the "watchdog" function, panel two should assume one or more of those assignments as appears most economical and orderly. Such assignments are best made by the grand juries, through their foremen, working with the Presiding Judge of the Superior Court and the District Attorney. The term for each panel of the grand jury should be of sufficient duration to perform its functions. Terms should be extended as justice and good sense require.

Accordingly, the Grand Jury recommends:

RECOMMENDATION 6: THAT THE BOARD OF SUPERVISORS AND THE SUPERIOR COURT SUPPORT RECOMMENDATION 12 OF OUR FINAL REPORT BY SEEKING LEGISLATION AUTHORIZING TWO OR MORE PANELS OF THE SAN DIEGO COUNTY GRAND JURY AS NEEDED; EACH PANEL OF THE GRAND JURY SHOULD BE AUTHORIZED TO PERFORM ANY AND ALL OF THE GRAND JURY'S FUNCTIONS, BUT EACH PANEL SHOULD HAVE DESIGNATED ASSIGNMENTS AS AGREED UPON AMONG THE PANEL FOREMEN, THE PRESIDING JUDGE OF THE SUPERIOR COURT, AND THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY AND/OR THE FOREMEN SHOULD APPLY FOR ADDITIONAL GRAND JURY PANELS. THE REASONS FOR SUCH APPLICATIONS SHOULD BE CAREFULLY CONSIDERED WHEN DETERMINING THE ASSIGNMENTS

FOR THE NEW GRAND JURY PANEL. GRAND JURY PANELS INVESTIGATING ORGANIZED CRIME SHOULD BE INVESTIGATIVE GRAND JURIES SIMILAR TO THOSE ESTABLISHED BY FEDERAL LAW.

The Grand Jury considers it essential that the Board of Supervisors keep fully informed as to organized crime problems within the County so that they can act intelligently and effectively in enacting legislation locally or recommending legislation by the State government. Recognizing that the District Attorney and the Sheriff cannot compromise the security of investigations nor state laws relating to libel and slander, we believe that the Board should be briefed at least twice yearly by both the District Attorney and the Sheriff.

RECOMMENDATION 7: THAT THE BOARD OF SUPERVISORS CAUSE ITSELF TO BE BRIEFED AT LEAST SEMI-ANNUALLY ON ORGANIZED CRIME CONDITIONS WITHIN SAN DIEGO COUNTY IN ORDER THAT IT CAN TAKE EFFECTIVE LEGISLATIVE ACTION AGAINST ORGANIZED CRIME.

One of the recommendations of the Federal Task Force Report on Organized Crime, which found universal support from all law enforcement officials who appeared before the Grand Jury, was the need for court-authorized electronic surveillance, including wiretapping and bugging. The Grand Jury recognizes in the post-Watergate period that this is not a popular practice; it also recognizes the difficulty of striking a balance between the benefits to law enforcement from the use of electronic surveillance and the threat to privacy and abuses which its use may entail. The Federal government has enacted legislation which, in our view, properly controls the threat to privacy and places the full control

over the use of this anti-crime technique with the courts. We believe that, given similar and adequate safeguards, the State of California should amend the present restrictive law on wiretapping and electronic surveillance and, with stringent controls, allow these techniques on a carefully limited basis, and directed only against specific organized crime operations.

RECOMMENDATION 8: THAT THE BOARD OF SUPERVISORS MAKE KNOWN TO THE REPRESENTATIVES OF THIS AREA IN STATE GOVERNMENT THAT THERE IS A PRESSING NEED FOR AUTHORITY, PROPERLY CONTROLLED, FOR COURT-AUTHORIZED WIRETAPPING AND ELECTRONIC SURVEILLANCE BY THE LAW ENFORCEMENT AGENCIES IN THIS COUNTY TO BE USED ONLY AGAINST SPECIFIC ORGANIZED CRIME OPERATIONS.

In 1967 the Task Force Report recommended that a general witness immunity statute be enacted at federal and state levels providing immunity sufficiently broad to assure compulsion of testimony in organized crime cases. Federal law now provides for court orders granting a witness who asserts the privilege against self-incrimination "use and derivative use" immunity. This means that neither the witness's testimony nor any information derived from that testimony can be used against the witness. However, the immunized witness can later be prosecuted for his crimes so long as the evidence used is wholly independent from the compelled testimony. The United States Supreme Court has upheld this law.

California law currently provides for "transactional" immunity in Penal Code Section 1324. This means that an immunized witness can never be prosecuted for the crimes about which he is compelled to testify. Of course, any witness who perjures himself, whether

compelled to testify by grant of immunity or not, can be prosecuted for perjury.

Organized crime cases usually involve reluctant witnesses. Often criminal organizations can only be identified by grand jury and other investigations in which the testimony of witnesses must be compelled by court orders. Prosecutors seek immunity orders only when other alternatives are futile. They must carefully coordinate their efforts among federal, state and local agencies in order to avoid destroying cases in other jurisdictions. This difficult task is very hazardous in California. The result may be a court order granting an organized crime member total immunity from prosecution for certain crimes.

The Federal and State laws should be reconciled; and organized crime control should be facilitated by appropriate legislation. Accordingly, the Grand Jury recommends:

RECOMMENDATION 9: THAT THE BOARD OF SUPERVISORS MAKE KNOWN TO OUR REPRESENTATIVES IN THE STATE LEGISLATURE THE NEED TO CHANGE CALIFORNIA LAW GOVERNING WITNESS IMMUNITY; THE CURRENT LAW PROVIDING FOR "TRANSACTIONAL" IMMUNITY SHOULD BE REPLACED BY A STATUTE AUTHORIZING ONLY "USE AND DERIVATIVE USE" IMMUNITY FOR WITNESSES.

One of the principal concerns and areas needing attention as expressed by various witnesses was in the area of greater cooperation and exchange of information between the various law enforcement agencies. To quote one witness, an experienced law enforcement officer, "There is plenty of work for everyone."

At the highest levels, the cooperation between agencies in San Diego County has been described as exceptional, with a

high degree of cooperation present between the Sheriff's Office, the District Attorney's Office and the various local police agencies. It has been stated that this relationship presents serious problems in many counties, and the Grand Jury is pleased to note that there is such an efficient and productive working arrangement in San Diego County.

It was emphasized over and over again in the course of this investigation that cooperation between the various agencies engaged in the battle of organized crime must be of the highest order. At the federal level, an Organized Crime Strike Force, a Narcotic Task Force, and other agencies are designed to orchestrate this cooperation. The Grand Jury has seen indications that at the working level "petty jealousies" and distrust have retarded the most effective operations of law enforcement agencies. The Jury believes, given strong leadership which demands the fullest possible cooperation at all subordinate levels, this petty jealousy can be dissipated or reduced.

RECOMMENDATION 10: THAT THE DISTRICT ATTORNEY AND THE SHERIFF ISSUE SUCH INSTRUCTIONS AS ARE NECESSARY TO MAKE IT UNMISTAKABLY CLEAR THAT THEY WILL NOT TOLERATE ANY LACK OF COOPERATION WITH ALL OTHER LAW ENFORCEMENT AGENCIES ON THE PART OF ANY MEMBER OF THEIR OFFICE OR DEPARTMENT, AND THAT THEY CONSTANTLY SUPERVISE THE ACTIONS OF THOSE FOR WHOM THEY ARE RESPONSIBLE TO INSURE THAT THESE INSTRUCTIONS ARE BEING CAREFULLY AND FULLY CARRIED OUT.

An area of concern to law enforcement personnel is the lack of severity in sentencing of known and repeated offenders. This discouragement and, indeed, outrage on the part of law enforcement officers who spend countless hours investigating and

apprehending these individuals can well be imagined. Testimony heard by the Grand Jury indicated that some judges in the municipal courts were too lenient. It is incumbent on the judiciary to mete out appropriate sentences, as provided by law, to those convicted. This will serve as a deterrent to their activities, and a warning to others engaged in similar activities that there is indeed a workable and effective criminal justice system in San Diego County. This would serve the dual purpose of assisting law enforcement officials in the carrying out of their duties and discouraging the growth and availability of other illegal enterprises.

RECOMMENDATION 11: THAT PRESCRIBED JAIL SENTENCES, AUTHORIZED BY LAW, BE IMPOSED ON CONVICTED PERSONS, PARTICULARLY THOSE PREVIOUSLY CONVICTED OF THE SAME OR SIMILAR OFFENSES.

Evidence was presented showing pre-sentence reports are prepared by the County Probation Department to inform judges about a defendant's background before the defendant is sentenced. Copies of the report are delivered to defense counsel and the District Attorney before the sentencing hearing. Such reports can include information about a defendant's organized crime connections.

The Probation Department performs no special investigation to determine whether a case is related to organized crime; and occasionally the facts of a case may clearly show that it is an organized crime case. However, in most cases, the Probation Department must rely upon law enforcement officers for such information. In one case the District Attorney informed the Probation Department of the organized crime connections of the

defendant. The information was not included in the probation report as it should have been. However, in other cases the information was properly included.

Since a defendant may challenge the validity of such information during the sentencing hearing, and because it is imperative that judges know whether a case is an organized crime case, the Grand Jury recommends:

RECOMMENDATION 12: THAT THE COUNTY PROBATION DEPARTMENT INCLUDE INFORMATION SHOWING THE DEFENDANT'S ORGANIZED CRIME CONNECTIONS IN PRE-SENTENCE REPORTS; THE REPORTS SHOULD CLEARLY SHOW THE SOURCE OF SUCH INFORMATION.

A matter of considerable concern to the Grand Jury, and of vital concern to every citizen, are the actions of the California Adult Authority. While the actions of this Authority apply to the release of all convicted felons, they most certainly impact on organized crime. Regardless of how effective the actions of the other parts of the criminal justice system are, if the Adult Authority, a politically appointed body, confounds justice by letting criminals return to society before they are ready to be reasonable and responsible citizens, the work of the police and the courts are to no avail. To the criminal who is a member of organized crime it greatly reduces the probability or the severity of his punishment, and thus encourages organized crime. The Grand Jury has addressed this concern in two letters to the Governor, and in its Final Report (Pages 40-42). It can only reiterate that this is an area which cries for attention if we are to really control crime of all classifications. We therefore

repeat the Recommendation 28 from the Final Report.

RECOMMENDATION 13: THAT THE BOARD OF SUPERVISORS REQUEST AN INVESTIGATION INTO THE MATTER OF PAROLEES BY THE CALIFORNIA ADULT AUTHORITY AND, IF ITS INVESTIGATION CONFIRMS OUR VIEW, IT MAKE ITS DEEP CONCERN KNOWN TO THE GOVERNOR AND THE LEGISLATORS OF THE STATE OF CALIFORNIA.

From testimony heard during this investigation, it is obvious that the two focal points for organized crime in the western area of the United States are Los Angeles and Las Vegas. As a result, it appears that the preponderance of effort by the Federal authorities are concentrated in those locations, to the detriment of San Diego County. The Grand Jury believes that the Board of Supervisors should bring pressure to bear through the congressmen and senators who represent this area in Washington, demanding that adequate anti-organized crime support be provided by the Federal government to San Diego County. It is particularly important as this area is the channel through which a large amount of narcotics are funneled from Mexico into the United States.

RECOMMENDATION 14: THAT THE BOARD OF SUPERVISORS, THE MAYORS OF ALL THE CITIES IN SAN DIEGO COUNTY, AND OTHER OFFICIALS MAKE THE NEEDS OF SAN DIEGO COUNTY FOR ANTI-ORGANIZED CRIME ACTIVITIES KNOWN TO THE FEDERAL GOVERNMENT.

d. Narcotics

There are a series of actions which could be taken by the State Legislature which would hit elements of organized crime engaged in the trafficking of narcotics where it would hurt the

most--in their pocketbooks. As previously stated several times in this report, San Diego County is the hub of a national and international network for the flow of narcotics to the rest of the state and the nation. Combatting a state and national problem predominately with funds derived from local taxation is an undue burden on San Diego County. It is inequitable and inefficient for this county to carry a disproportionate amount of the burden of financing this battle against the flow of narcotics.

RECOMMENDATION 15: THAT THE BOARD OF SUPERVISORS REQUEST THE STATE LEGISLATURE TO PROVIDE SUBVENTION FUNDS TO ASSIST SAN DIEGO COUNTY IN COMBATTING NARCOTICS TRAFFICKING.

It appears to the Grand Jury that fines collected from narcotics violations would be an excellent source of funds to fight narcotics trafficking. There are precedents of assessments of traffic fines to support driver training and peace officer training. In addition, recently enacted legislation permits only a fine of up to \$100 for the possession of small amounts of marijuana which could also generate funds.

RECOMMENDATION 16: THAT THE BOARD OF SUPERVISORS REQUEST THAT THE STATE LEGISLATURE ESTABLISH A SYSTEM OF RETURNING A PERCENTAGE, IF NOT ALL, OF ANY FINES LEVIED AGAINST CONVICTED NARCOTICS AND DRUG VIOLATORS TO THE CITY OR COUNTY WHERE THE VIOLATION OCCURRED, TO BE USED EXCLUSIVELY FOR NARCOTICS ENFORCEMENT. PRECISE ACCOUNTING CONTROLS MUST BE REQUIRED.

RECOMMENDATION 17: THAT THE BOARD OF SUPERVISORS REQUEST THE STATE LEGISLATURE TO REQUIRE THAT A CONVICTED NARCOTICS OR DRUG VIOLATOR, AS A

CONDITION OF ANY PROBATION, SHOULD REPAY ALL GOVERNMENT FUNDS EXPENDED ON THE PURCHASE OF EVIDENCE (I.E. NARCOTICS CONTRABAND) WHICH WAS USED TO APPREHEND AND CONVICT HIM,

The Grand Jury has been informed that in two and a half years of operation by the Narcotics Task Force in San Diego County, the sum of \$345,000 has been seized and returned to the suspect or his attorney. Once again, the Grand Jury considers these funds should be used to fight the narcotics traffic. Such a system has the added advantage that funds would be made available to localities in general proportion to the flow of narcotics and the efficiency of its enforcement agencies.

RECOMMENDATION 18: THAT THE BOARD OF SUPERVISORS REQUEST THE STATE LEGISLATURE TO REVISE THE REVENUE AND TAX LAWS TO ALLOW THE STATE TO CONFISCATE AND KEEP MONIES SEIZED FROM CONVICTED NARCOTICS TRAFFICKERS.

As a parallel recommendation with the same rationale, i.e. to have criminal rather than law-abiding taxpayers provide some of the financial support needed to fight organized crime, the Jury recommends:

RECOMMENDATION 19: THAT THE BOARD OF SUPERVISORS REQUEST THE STATE LEGISLATURE TO RESTORE THE FORMERLY REPEALED LAWS REQUIRING THAT MOTOR VEHICLES TRANSPORTING NARCOTICS BE SEIZED BY THE STATE AND SHOULD ADD TO THAT STATUTE AIRPLANES, BOATS, AND ALL OTHER CONVEYANCES USED,

In testimony provided the Grand Jury, it was stated that most law enforcement agencies involved with combatting drugs concentrate on adults. This is due in part to legal restrictions:

which prevent methadone treatment of individuals under 18 years of age except in extraordinary circumstances. The extraordinary circumstances exist only in acute or emergency cases. Unnecessary restrictions on treatment of juveniles do not prevent a young drug user from becoming firmly "hooked" while awaiting "adult" treatment. It is estimated that at least 40 percent of narcotic offenses are committed by juveniles. This would indicate that law enforcement agencies are concentrating on only 60 percent of the criminal activity. Unfortunately, they appear to be concentrating on the wrong group of individuals. It is the opinion of experienced law enforcement officers, based upon many years of experience in the narcotic field, that few, if any, adult drug addicts are ever cured of their addiction. The only hope lies in apprehending the young offender who may not be as firmly hooked. (This subject was addressed in greater detail on Pages 84 and 85 of the Final Report of the 1975-76 Grand Jury.) It appears from the above that two actions are required.

RECOMMENDATION 20: THAT THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA DIRECT THAT GREATER EMPHASIS BE PLACED ON JUVENILE DRUG OFFENDERS.

RECOMMENDATION 21: THAT THE BOARD OF SUPERVISORS MAKE KNOWN TO THE REPRESENTATIVES OF THEIR AREA IN THE STATE LEGISLATURE THE NEED FOR LEGISLATION TO BE ENACTED TO ALLOW THE TREATMENT OF JUVENILE DRUG USERS FROM THE MOMENT DRUG USE IS DISCOVERED.

e. Prostitution

There are those who consider prostitution a "victimless crime", and there is room for many points of view. However, two points should be considered. Prostitution is against the law,

and it is a traditional and profitable business for organized crime. Again, based upon the testimony of law enforcement officials in San Diego County who are charged with the enforcement of laws on vice, there is a tendency within the courts to downgrade or minimize sentencing in vice cases. The Grand Jury was concerned to hear that the usual sentence for prostitution is one to two years probation, and a fine of from \$25 to \$100; jail sentences are invariably suspended, even when the prostitute is arrested while on probation from a previous conviction. The Jury also received testimony that certain municipal court judges are occasionally arbitrary in their actions, and thus frustrate or deny justice.

Because of this proclivity within the local courts, the Grand Jury has been informed that prostitutes from the San Francisco/Oakland area have been migrating to San Diego. This is due to the fact that a mandatory 30-day jail sentence is routinely being imposed for prostitution in the Bay area. San Diego is regarded as an "open city" for prostitution. The imposition of fines is regarded by many who engage in the trade of prostitution and related criminal areas as being more nearly a "tax" paid to the government in order to continue in business; the small fines which are levied do not act as a deterrent to the continuation of their activities. It was generally agreed by the law enforcement officials that the only way to effectively discourage those engaged in prostitution is to create a significant economical hardship, coupled with a mandatory jail sentence.

Evidence was presented indicating that organized crime elements are infiltrating the massage parlor businesses. Organized crime is and has been apparent in the "adult bookstore" and peep-show businesses. Some of these businesses are havens for vice crimes such as prostitution, pimping and pandering.

In 1973 and 1974, the District Attorney's Office attempted to combat the problem by using the Red Light Abatement Law in two cases. The first case was successfully settled out of court. The second case was decided by the Superior Court. The Court found the massage parlors to be houses of prostitution and then merely ordered that the prostitution cease. No forfeitures were ordered, and the business was not closed.

Furthermore, administrative laws which require little more than payment of a fee do not deter organized crime from entering such businesses. For example, anyone, regardless of criminal record, can obtain a license to operate a massage parlor in the City of San Diego for \$12.50. Since massage parlors are no longer police-regulated businesses, only the City zoning authority reviews the license application.

Recently the District Attorney has renewed his use of the Red Light Abatement Law. Owners of property housing massage parlors are notified of the nuisance which became apparent from reports of prostitution crimes. Owners are then invited to abate the nuisance without judicial compulsion. In some cases this has been effective. However, organized crime will profit from vice crimes until the judiciary responds with stricter punishment for bookmaking, pimping, prostitution and pandering.

RECOMMENDATION 21: THAT THE LOCAL JUDICIARY RE-EVALUATE ITS ATTITUDE ON THE SO-CALLED "VICTIMLESS CRIMES" AND THAT MANDATORY JAIL SENTENCES BE IMPOSED ON THOSE CONVICTED OF PROSTITUTION, PANDERING AND PIMPING.

Another concern expressed by witnesses is that the government of the State of California has not clearly indicated to local jurisdictions that it has not pre-empted local actions on control of massage parlors. It appears from the testimony given that there is a gray area between the State and local governments.

RECOMMENDATION 22: THAT THE BOARD OF SUPERVISORS MAKE KNOWN THEIR CONCERNS TO THEIR ELECTED STATE REPRESENTATIVES FROM SAN DIEGO COUNTY OF THE NEED FOR THE STATE TO MAKE IT CLEAR THAT IT HAS NOT PRE-EMPTED LOCAL ACTIONS ON THE CONTROL OF MASSAGE PARLORS.

f. Additional Resources (City and County)

Testimony indicated in many cases brought to trial by the City of San Diego Police, there was insufficient investigation and preparation of background materials by the City legal staff to secure a conviction in vice-related crimes. The reason given was a shortage of personnel in the City Attorney's Office. It was considered that this tied law enforcement officials' hands. It was further stated that there must be thoroughly prepared and highly competent personnel assigned to these cases if the law enforcement system is to be effective.

RECOMMENDATION 23: THAT THE COUNCIL OF THE CITY OF SAN DIEGO INSURE THAT THERE ARE PERSONNEL IN THE CITY ATTORNEY'S OFFICE TO PROVIDE ADEQUATE STAFF SUPPORT FOR VICE CASES BEING PROSECUTED IN THE COURTS.

As a related matter, it was pointed out to the Grand Jury that although the number of police within the City of San Diego have been increased, there has been no increase in the vice squad or of intelligence personnel for several years. This was attributed, at least in part, to the views held by elected officials that they need not be concerned about "victimless crimes." The result has been that the City of San Diego in recent years has seen an unprecedented increase in the number of massage parlors. It is significant that there are about 130 "massage parlors" in the City of San Diego, and only 13 in the County-controlled area. Testimony indicated that a license could be obtained to operate a massage parlor within the City with unbelievable ease and with few restrictions. As long as elected officials refuse to recognize that the so-called "victimless crimes" are in reality the springboard for the entry of organized crime into a community, the threat of organized crime will persist. While the Grand Jury is in no position to evaluate the allocation of resources within the City, it is the Grand Jury's opinion that:

RECOMMENDATION 24: THAT THE CITY COUNCIL OF SAN DIEGO SHOULD REVIEW ITS ALLOCATION OF RESOURCES TO SATISFY ITSELF THAT ADEQUATE PERSONNEL AND EQUIPMENT ARE BEING PROVIDED IN THE VICE SQUAD AND INTELLIGENCE UNIT OF THE SAN DIEGO POLICE DEPARTMENT.

As previously stated, in the course of the investigation it became apparent that organized crime must be attacked by each and every level of government. We believe that the City of San Diego is making a major contribution to this battle and doing a highly creditable job. However, there appears to be one

serious lack in its operation. The Grand Jury therefore recommends:

RECOMMENDATION 25: THAT THE CITY OF SAN DIEGO PROVIDE FUNDS REQUIRED TO PURCHASE SOPHISTICATED SURVEILLANCE EQUIPMENT FOR THE POLICE DEPARTMENT TO BE USED AGAINST ORGANIZED CRIME.

As a matter of great concern to the Grand Jury is the fact that the District Attorney's Organized Crime Unit has been, and is now, funded by the Federal Government. Realistically, it must be anticipated that some day this may stop. This Unit is an essential tool in combatting organized crime and without its efforts the Office of the District Attorney would be severely hampered.

RECOMMENDATION 26: THAT THE BOARD OF SUPERVISORS PROVIDE PERMANENT FUNDING FOR THE DISTRICT ATTORNEY'S ORGANIZED CRIME UNIT AT SUCH TIME AS FEDERAL FUNDING OF THAT UNIT IS DISCONTINUED.

g. The News Media

The Task Force on Organized Crime clearly recognized the vital role played by the news media; we concur. As many of our previous reports and letters have stated, we hold that it is essential that the news media keep the public informed and alert to problems and threats. In the case of organized crime, it transcends a public duty and becomes a necessity for the very survival of lawful government and society.

RECOMMENDATION 27: THAT NEWSPAPERS, TELEVISION AND RADIO STATIONS DESIGNATE A HIGHLY COMPETENT REPORTER FOR WORK AND CONCENTRATION ON ORGANIZED CRIMINAL

ACTIVITIES, THE CORRUPTION CAUSED BY IT, AND GOVERNMENTAL EFFORTS TO CONTROL IT. WHERE THIS IS NOT PRACTICAL, THE NEWS MEDIA SHOULD FULFILL ITS RESPONSIBILITY TO INFORM THE PUBLIC OF THE NATURE AND CONSEQUENCE OF THESE CONDITIONS WITH WHAT RESOURCES CAN BE PROVIDED.

h. The Audit Report

The final recommendations are to reiterate those developed in the course of the audit of funds used to combat organized crime in San Diego County, the first of which was developed independently by the Grand Jury, but which is reinforced by findings in the audit report.

Evidence concerning the Sheriff's Intelligence Unit established that neither attorneys nor accountants work within this Unit which in some ways restricts its efficiency. No law enforcement unit can successfully combat organized crime without both legal officers and accountants. Either attorneys and accountants should be provided within the Sheriff's Intelligence Unit, or arrangements should be made for the District Attorney and the County Auditor to provide these services as required.

RECOMMENDATION 28: THAT THE STAFF OF THE SHERIFF'S INTELLIGENCE UNIT HAVE AVAILABLE TO IT BOTH ATTORNEYS AND ACCOUNTANTS, EITHER INTEGRATED OR READILY ACCESSIBLE, AS DETERMINED THE MOST EFFECTIVE AND ECONOMICAL.
(ENCL. 1, APPENDIX B, PARAGRAPH 7)

The justification for the remaining recommendations is contained in Enclosure 1, Appendix B, therefore no further justification will be provided here. A citation of the appropriate paragraph will be made.

RECOMMENDATION 29: THAT THE DISTRICT ATTORNEY AND THE SHERIFF AGREE UPON A COMMON UNDERSTANDING OF THE CRITERIA FOR ORGANIZED CRIME ACTIVITIES. (PARAGRAPH 4)

RECOMMENDATION 30: THAT AT THE EARLIEST POSSIBLE TIME THE SHERIFF APPLY FOR MEMBERSHIP IN THE LAW ENFORCEMENT INTELLIGENCE UNIT (LEIU), AND THAT OTHER MEMBERS OF THE SAN DIEGO COUNTY GOVERNMENTAL AGENCIES SUPPORT THIS REQUEST. (PARAGRAPH 6)

RECOMMENDATION 31: THAT THE DISTRICT ATTORNEY AND THE SHERIFF IN CONCERT WITH THE CHIEF ADMINISTRATIVE OFFICER INITIATE ACTION WITH APPROPRIATE COUNTY OFFICIALS IN ORDER TO ACHIEVE MAXIMUM BENEFIT FROM THE COUNTY COST ACCOUNTING SYSTEM AND THE COUNTY ACCOUNTING AND RESOURCE MANAGEMENT SYSTEM (A.R.M.S.), (PARAGRAPH 8) (ALSO SEE RECOMMENDATION 93 OF THE FINAL REPORT OF THE 1975-76 GRAND JURY.)

The audit report noted "as a result of certain laws and regulations, some Federal and State agencies have different law enforcement and prosecuting means available than does the County District Attorney." (Paragraph 5) It is considered that the other recommendations contained in this report have adequately pointed out those differences and recommended appropriate remedial action.

PEAT, MARWICK, MITCHELL & CO.

CERTIFIED PUBLIC ACCOUNTANTS

1850 FIFTH AVENUE

SAN DIEGO, CALIFORNIA 92101

July 1, 1976

Lt. General Louis Metzger, USMC, (Ret.), Foreman
1975-76 San Diego County Grand Jury
220 West Broadway, Room 7003
San Diego, California 92101

Dear General Metzger:

We have completed our limited review relating to the accounting for organized crime prevention expenditures as listed on schedules supplied to us by the District Attorney's Office and Sheriff's Department. This letter and the attached appendices set forth: the objectives of this special review; the approach we used in accomplishing these objectives; and the findings and comments which came to our attention during this review.

BACKGROUND AND OBJECTIVES

The purpose of this review was to assist the 1975-76 San Diego County Grand Jury in its investigation into the County's organized crime prevention activities. The San Diego District Attorney and Sheriff were requested to supply us with a listing of expenditures for the period from July 1, 1973 to March 31, 1976 resulting from their respective activities associated with organized crime prevention. This two-year and nine-month period was selected in order to provide the most recent data on expenditures without undue disruption to these two offices.

As stated in our May 17, 1976 letter to the 1975-76 San Diego County Grand Jury, we were requested to perform a review of these expenditures directed toward the following objectives:

1. To evaluate controls and procedures relating to the accounting for expenditures listed on the schedules supplied by the District Attorney's Office and Sheriff's Department.
2. To review and test expenditures listed as to proper authorization and existence of appropriate supporting documentation.
3. To make recommendations on administrative matters which came to our attention during this limited review.

Lt. General Louis Metzger, USMC, (Ret.), Foreman
1975-76 San Diego County Grand Jury
July 1, 1976

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It should be noted that:

- a. The organized crime prevention expenditures as supplied to us and as summarized in Appendix A are not directly comparable since the District Attorney's Office and the Sheriff's Department have used a different definition or criteria for organized crime prevention activities. In addition, they carry out different criminal investigation functions.
- b. Since this review was limited primarily to a review of accounting data, it was not intended to be an in-depth analysis of the effectiveness and efficiency of the County's organized crime prevention activities. You have informed us that you are not aware of any currently acceptable measurements of efficiency in carrying out these crime prevention activities, but would like us to provide you, to the extent possible, with any comments we might be able to make as to whether these expenditures are being used efficiently.
- c. It was our understanding that certain data is of such a confidential nature that it was not made available to us. These special accounts, one each in the District Attorney's Office and the Sheriff's Department, are audited regularly by the County Auditor and Controller. Additionally, we understand that the District Attorney's Office is evaluated yearly by the Attorney General's Office. We understand that you will accept these audits as well as any other applicable audits which have been conducted by governmental agencies which pertain to the County's organized crime prevention activities without any further review by us.
- d. Because our procedures did not constitute an examination in accordance with generally accepted auditing standards and we did not perform a complete audit of all accounts and records of these two offices, we do not express an opinion on the presentation of financial data nor on whether the schedule for expenditures is a complete listing of all such expenditures.

APPROACH

In order to assist the San Diego County Grand Jury in its review of the County's organized crime prevention activities and to meet the above objectives, we performed the following tasks:

Lt. General Louis Metzger, USMC, (Ret.), Foreman
1975-76 San Diego County Grand Jury
July 1, 1976

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1. We met with representatives of the County District Attorney's Office and the County Sheriff's Department and discussed such matters as the administration and organization of their respective organized crime prevention activities, the coordination among other local, State and Federal authorities, and the extent of their accounting controls and operational procedures relating to the expenditure of funds in carrying out such activities.
2. We tested expenditures listed on schedules provided to us by comparing data set forth on these schedules to supporting documents including payroll reports, invoices, cancelled warrants (checks), departmental records, and other County accounting records. The detailed description of these tests and our findings are presented in Appendix A.
3. We examined certain documents and reports for information and data relating to fiscal and general management matters in connection with the County's organized crime prevention activities. These reports provided us with comments on evaluations of these two County offices by outside agencies.

The documents and reports include:

- a. The advance draft copy of a State Department of Justice evaluation of the San Diego County District Attorney's organized crime prevention activities dated April 19, 1976.
- b. The County Auditor and Controller's internal audit reports and workpapers pertaining to the review of the Sheriff's Department and the District Attorney's Office.
- c. The grant documents associated with the U.S. Department of Justice Law Enforcement Assistance Association programs on organized crime prevention awarded to the California Office of Criminal Justice Planning.
- d. Audit documentation of a State review of the compliance by San Diego District Attorney's Office with grant provision in the Organized Crime Prevention Program dated February 18, 1975.
- e. The District Attorney's manual on the "Organization, Rules and Procedures - San Diego County Intelligence Unit".
- f. The responses of the Sheriff and the District Attorney to questions of the Board of Supervisors regarding organized crime prevention activities.

P. M. M. & CO.

Lt. General Louis Metzger, USMC, (Ret.), Foreman
1975-76 San Diego County Grand Jury
July 1, 1976
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FINDINGS

Appendix A contains our findings as a result of performing the tasks as outlined in Task 2 above.

Appendix B contains our comments relating to other matters which came to our attention during this review.

* * * * *

A draft of this report was reviewed with the District Attorney, Sheriff, Chief Administrative Officer and the Auditor and Controller. We will be pleased to further discuss with you any of the matters contained in this letter.

Very truly yours,

Paul, Marvin, Mitchell & Co.

REVIEW OF EXPENDITURES

In connection with the 1975-76 San Diego County Grand Jury's investigation of the organized crime prevention activities of the San Diego County District Attorney's Office and the Sheriff's Department, we were requested to make a limited review of certain accounting data supporting County organized crime prevention expenditures for the period from July 1, 1973 to March 31, 1976.

Our review of these expenditures was limited as set forth in the accompanying letter and as stated below. The listing of organized crime prevention expenditures supplied to us by the District Attorney and the Sheriff are summarized as follows:

District Attorney's Office:

| | <u>Personnel Costs</u> | <u>Confidential Fund</u> | <u>Other Expenditures</u> | <u>Total</u> |
|-----------------------------------|----------------------------|------------------------------|-------------------------------|----------------|
| July 1, 1973 to June 30, 1974 | \$ 262,087 | 4,517 | 26,939 | 293,543 |
| July 1, 1974 to June 30, 1975 | 264,222 | 24,266 | 37,544 | 326,032 |
| July 1, 1975 to March 31, 1976 | <u>236,986</u> | <u>5,645</u> | <u>34,062</u> | <u>276,693</u> |
| | <u>\$ 763,295</u> | <u>34,428</u> | <u>98,545</u> | <u>896,268</u> |

The listing of expenditures supplied to us by the District Attorney's Office is composed of all the direct, identifiable costs incurred within Organized Crime Prevention Program, Fraud, Special Investigations and Intelligence Units as well as other personnel costs relating to time spent by the District Attorney, Assistant District Attorney, Chief Deputy District Attorney, Deputy District Attorneys and investigators in matters they have determined to be organized crime prevention activities.

Sheriff's Department:

| | <u>Personnel Costs</u> | <u>Special Fund</u> | <u>Other Expenditures</u> | <u>Total</u> |
|-----------------------------------|----------------------------|-------------------------|-------------------------------|------------------|
| July 1, 1973 to June 30, 1974 | \$ 590,320 | 14,489 | 7,167 | 611,976 |
| July 1, 1974 to June 30, 1975 | 584,389 | 14,400 | 17,914 | 616,703 |
| July 1, 1975 to March 30, 1976 | <u>460,466</u> | <u>12,000</u> | <u>6,890</u> | <u>479,356</u> |
| | <u>\$ 1,635,175</u> | <u>40,889</u> | <u>31,971</u> | <u>1,708,035</u> |

The listing of expenditures supplied to us by the Sheriff's Department is composed of approximately 80% of the direct, identifiable costs incurred within the Office of Special Investigations and 100% of such costs incurred by the Narcotics Unit of the Detective Bureau. These expenditures do not include the costs of purchase, operation or maintenance of County vehicles.

It was necessary, of course, that the District Attorney and the Sheriff make certain judgments as to which expenditures they thought should properly be included in the schedules supplied to us. It was impractical, for example, to maintain detailed accounting records in a manner that would enable them to allocate such costs as general County overhead, all general department overhead, equipment purchased many years ago, equipment purchased by other County departments, and all costs associated with other investigation or law enforcement activities which may in some way have contributed to the prevention of organized crime.

Recognizing that the District Attorney and the Sheriff have different criminal investigation functions and have used a different definition or criteria in accumulating the above expenditures, the combined total amount of the organized crime prevention expenditures as summarized above is \$2,604,303. In Appendix B, we have made a recommendation that a common understanding of the criteria for organized crime activities be established.

As previously stated, the above summarized expenditures do not include any general County overhead or all department overhead costs. Total indirect costs for the District Attorney's Office and Sheriff's Department which include general County overhead and department overhead, as set forth in the County's proposed fiscal year 1976-77 program budget are approximately 50% and 42% of direct personnel costs of these departments, respectively. Indirect cost amounts and related percentages for the period under this review were not readily available. In addition, application of these department percentages to an individual unit within a department may not necessarily be appropriate. However, if such indirect costs had been accumulated and were allocated to the organized crime prevention activities expenditures, such expenditures would have been materially increased.

DISTRICT ATTORNEY'S OFFICE

Our review was limited to the following procedures:

1. We traced the total expenditures as set forth in the above schedule to supporting detail expenditure summaries prepared by the District Attorney's Office. We found no exceptions.
2. We totaled and traced the expenditures listed on the supporting detail expenditures summaries to supporting monthly expenditure worksheet summaries. We found no exceptions.
3. Personnel costs of \$763,295, including fringe benefits, is composed of costs for 20 employees assigned full time to organized crime prevention activities at some time during the period under review as well as costs of employees assigned part time to this activity. We traced approximately 25% of these personnel costs to detail payroll records maintained in the District Attorney's Office and approximately 30% of these personnel costs to payroll reports maintained at the Employee Information Services Unit of the County Auditor and Controller's Office. Approximately 20% of the employees assigned full time were traced to departmental personnel assignment and investigation files. Approximately 40% of the employees assigned full time were traced to records maintained at the Employee Information

Services Unit and to a paid salary warrant (check). We found no exceptions except for the use of hourly rates for part time employees which were not adjusted for several pay periods for salary increases. This resulted in an approximate \$300 understatement of personnel costs.

4. Other expenditures amounted to \$98,545, of which approximately 60% represents contractual agreements for the use of real and personal property. We traced approximately 10% of the dollar amount of these other expenditures from the schedules supplied to us to copies of vendor invoices maintained at the District Attorney's Office, approximately 9% of the dollar amount to purchase orders or payment requests and invoices on file at the County Auditor and Controller's Office and approximately 6% of the dollar amount to related paid warrants (checks). Supporting documents were also examined for appropriate approvals and apparent relationship to the stated expenditure purposes. We found no exceptions.

Special investigation fund expenditures of \$34,428 were not included in our tests under the limitations of this review. These expenditures were reviewed by the County Auditor and Controller and such review has been accepted by the Grand Jury as adequate to support such expenditures.

SHERIFF'S DEPARTMENT

Our review was limited to the following procedures:

1. We traced the total expenditures as set forth in the above schedule to supporting detail expenditure summaries prepared by the Sheriff's Department. We found no exceptions.
2. We totaled the supporting detail expenditure summaries and traced 22% of the dollar amount of the gross personnel expenditures and 100% of the dollar amount of the other expenditures to supporting detail working papers. Where allocations of expenditures were encountered, we recalculated the amount of the allocation. We found no exceptions, except as otherwise noted under the procedures detailed below.
3. We traced approximately 22% of the dollar amount of the \$1,635,175 in personnel costs to payroll records maintained in the Sheriff's Office and approximately 10% of the dollar amount of these costs to payroll records maintained at the Employee Information Services Unit of the County Auditor and Controller's Office. (Representatives of the Sheriff's Office supplied us with the

names of 76 employees assigned at some time during the period under review to the Office of Special Investigation and the Narcotics Unit of the Detective Bureau.) We traced approximately 18% of the number of employees so identified to personnel assignment records in the Sheriff's Office. We traced approximately 20% of the number of these employees to personnel records at the Employee Information Services Unit and to a paid salary warrant (check). We found no exceptions, except for one instance where the Sheriff's Office personnel assignment records did not identify one employee as being specifically assigned to an area defined by the Sheriff as being part of organized crime activities under review.

4. Other expenditures of \$31,971 represents outlays for various operating expense items and equipment purchases. We traced approximately 69% of the dollar amount of these other expenditures to purchase orders or departmental requisitions on file at the Sheriff's Office. We traced approximately 35% of the dollar amount to purchase orders or payment requests and invoices on file at the San Diego County Auditor and Controller's Office and to related paid warrants (checks). Supporting documents were examined for appropriate approvals and apparent relationships to the stated expenditure purpose. In those instances where we encountered an allocation of expenditures, we recalculated the amount of the allocation. We found no exceptions, except as follows:
 - a. Certain operating supply expenditures allocated on a monthly basis were included for two extra months. This resulted in a \$332 overstatement of expenditures.
 - b. One category of expenditures, for one year, should have been partially allocated to non-organized crime activities. This resulted in a \$655 overstatement of expenditures.
 - c. An expenditure listed under purchase order No. 04327, dated October 3, 1974, had not been billed nor paid at the time of our review. This resulted in a \$1,544 overstatement of expenditures.

Special investigation fund expenditures of \$40,889 were not included in our tests under the limitations of this review. These expenditures were reviewed by the County Auditor and Controller and such review has been accepted by the Grand Jury as adequate to support such expenditures.

OTHER COMMENTS

In this appendix, we present our comments about certain administrative matters which came to our attention during the course of this limited review of organized crime prevention expenditures by the District Attorney's Office and the Sheriff's Department. The County activities, of course, are a part of a large organized crime prevention program which includes not only the County, but also Federal, State and other local authorities. As stated in the accompanying letter, this review was limited primarily to a review of accounting data and was not intended to be an in-depth analysis of the effectiveness and efficiency of the County's organized crime prevention activities. Additional information about some of the following comments as well as other related subjects can be found in the reports on the District Attorney's Office and Sheriff's Department as listed in the "Approach" section of the accompanying letter.

1. The existence of specialized organized crime prevention units in the District Attorney's Office and the Sheriff's Department is significant in itself because it demonstrates that the County has made a commitment (1) to fight this particular type of crime in the San Diego region, and (2) to cooperate with other agencies in their efforts on a national scale.
2. Because of the unique aspects of this special area of criminal investigation, there are occasions where responsibilities and functions may overlap. During the course of this limited review, however, we did not become aware of any duplication of efforts by the District Attorney's Office and the Sheriff's Department.
3. Both the Sheriff and District Attorney have established training programs in which organized crime prevention investigators and deputies are sent to various schools, seminars and symposiums. It appears that the amount of time spent on training personnel is reasonable.
4. As a result of their different criminal investigation functions, it does not appear that a common definition or criteria for organized crime activities exists for the Sheriff and the District Attorney. We recommend that a common understanding of the criteria for organized crime activities be established so that each can better

complement the other in their respective arresting and prosecuting functions. This would also enhance the general awareness of the scope and nature of organized crime.

5. We found that as a result of certain laws and regulations, some Federal and State agencies have different law enforcement and prosecuting means available than does the County District Attorney. We understand that the County will continue to pursue changes in legislation which would make available to local agencies the legal tools currently available to Federal and State agencies.
6. We found the District Attorney and Sheriff share information on organized crime figures, and some efforts are being made among the various authorities to coordinate and assist each other in their organized crime prevention activities. However, while the District Attorney is a member of the Southern California Law Enforcement Intelligence Unit (LEIU), the Sheriff is not. The Sheriff's intelligence gathering and the County's organized crime prevention abilities would be enhanced if the Sheriff was a member of LEIU.
7. The District Attorney has made arrangements to obtain the benefit of accounting expertise. This additional technical assistance is sometimes very important in building a case for prosecution. We noted that the Sheriff does not have either accounting or legal experts as part of his organized crime unit. We recommend that the District Attorney and Auditor and Controller provide legal and accounting support to the Sheriff's Department organized crime prevention activities.
8. We observed that the District Attorney's Office and the Sheriff's Department were not fully utilizing the County's cost accounting system. At present, this cost accounting system is utilized to accumulate data for relatively high levels of organizational activities. In order to provide management with the detail cost and workload data necessary to effectively evaluate all departmental activities, we recommend that the District Attorney and the Sheriff use the County Accounting and Resource Management System (ARMS) to a greater extent to accumulate and report additional activity and task cost and workload data.

No. 148

On July 13, 1976, Board Order No. 107, the Board referred the Grand Jury Interim Report "Organized Crime in San Diego County" and the recommendations presented relative thereto to the Chief Administrative Officer for the preparation of a written response for Board consideration on July 27, 1976. The Board now considers this matter.

There is presented to the Board a letter from the Chief Administrative Officer concerning a proposed response to the Grand Jury Interim Report and transmitting a draft form of letter to the Grand Jury, in answer to all of the recommendations made in their Interim Report, Board of Supervisors Document No. 525608. The recommendations contained in this document are as follows: consider the proposed comments on the recommendations made in the Grand Jury Interim Report, "Organized Crime in San Diego County"; and approve the report setting forth these comments, authorize the Chairman to sign it, and direct that copies be provided to the Presiding Judge of the Superior Court, and the County Clerk.

Discussion is held on the proposed comments. One of the points brought out was that several items were politically time-sensitive and any action on them should be deferred until after the forthcoming election.

A question is raised on the evaluation of the appointees to boards, commission and committees and how this was to be accomplished.

The Chief Administrative Officer's proposed special sub-committee on land use decisions is discussed, as well as the Grand Jury's proposed task force for reviewing existing codes and legislation.

A concern is expressed about the suggested resolution urging all candidates to public office to ask the Sheriff and District Attorney for a report on campaign contributions. It is suggested that before this resolution is adopted a process should be set up, or ask the Sheriff and District Attorney to develop the process and inform the candidates of same.

Some opposition to the two Grand Jury system is expressed and the suggestion is made that in light of feelings expressed, it might be advisable to meet with the District Attorney and Sheriff to discuss this, and other issues.

No. 148

7/27/76

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Page 1 of 2 pages

ON MOTION of Supervisor Walsh, seconded by Supervisor Brown, the Board directs the Chief Administrative Officer to invite the Foreman of the 1975-76 Grand Jury, the Sheriff and the District Attorney to meet with the Board on August 24, 1976 at 2:00 p.m. to discuss the proposed comments on the recommendations made in the Grand Jury Interim Report, "Organized Crime in San Diego County", at which time this matter will be back on the Board's agenda.

Roll call on the foregoing motion results in the following vote:

AYES: Supervisors Walsh, Brown, Conde, Bates and Taylor

NOES: Supervisors None

ABSENT: Supervisors None

No. 148

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Page 2 of 2 pages



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 20, 1976

TO: Board of Supervisors
FROM: Chief Administrative Officer

PROPOSED RESPONSE TO GRAND JURY INTERIM REPORT, "ORGANIZED CRIME IN SAN DIEGO COUNTY"

On July 13, 1976 (107) your Board considered and discussed the July 7, 1976 Grand Jury Interim Report, "Organized Crime in San Diego County." At that time you referred that Interim Report to me for the preparation of a proposed written response by your Board to the report's findings and recommendations. You directed that these proposed responses be back before your Board for your consideration on July 27. Your Board also included in the referral Supervisor Walsh's letter of July 13 regarding the recommendations of that Interim Report. It is my

RECOMMENDATION: That your Board

1. Consider the attached proposed comments on the recommendations made in the Grand Jury Interim Report, "Organized Crime in San Diego County."
2. Approve the attached report setting forth these comments, authorize the Chairman to sign it, and direct that copies be provided to the Presiding Judge of the Superior Court, and the County Clerk.

Board of Supervisors

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July 20, 1976

Discussion

This Interim Report contains 32 recommendations resulting from the 1975-76 Grand Jury's special investigation of organized crime. Of these, 22 are (1) directed to your Board, (2) directed at County functions under the control of your Board, or (3) otherwise, in my opinion, appropriate for your comment.

Because of the short time provided to prepare these proposed responses, some of them are of necessity rather brief, general and preliminary in nature. They are, however, intended to be supportive of the Grand Jury's findings. As specific actions are undertaken in response to the recommendations of this Interim Report, subsequent communications to the Grand Jury from your Board would be appropriate to demonstrate your intent to actively pursue this critical subject.

D. K. Speer

D. K. SPEER
Chief Administrative Officer

FISCAL IMPACT STATEMENT: None specifically identified at this time as a direct result of this report.

ADVISORY BOARD STATEMENT: None obtained at this time.

DKS:FH:bh

Attachment

cc: Foreman, 1975-76 Grand Jury
Foreman, 1976-77 Grand Jury
Presiding Judge, Superior Court
Sheriff
District Attorney
County Clerk
Assistant CAO - Fiscal & Justice
Assistant CAO - Human Resources
Auditor & Controller
County Counsel
Director, Office of Intergovernmental Affairs
Director, Budget & Fiscal, OMB
Director, Policy & Management, OMB

JUL 27 1976



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 20, 1976

Mr. Harry H. Holthusen, Foreman
San Diego County Grand Jury
220 West Broadway, Room 7003
San Diego, California 92101

COMMENTS RE: 1975-76 GRAND JURY INTERIM REPORT - "ORGANIZED CRIME IN SAN DIEGO COUNTY"

The following comments are submitted in response to the 1975-76 Grand Jury's subject Interim Report dated July 7, 1976. (The page and recommendation numbers shown are those of the Interim Report.)

p. 36 - RECOMMENDATION 1: "That the Board of Supervisors establish a task force or committee for the purpose of carefully reviewing existing codes and legislation to ensure that every possible safeguard has been established against the corruption of elected and appointed officials. That upon the completion of this review it enact such legislation as is necessary."

Comment:

This Board supports this recommendation. The Chief Administrative Officer in conjunction with the County Counsel is herewith directed to recommend to this Board by September 1, 1976 the composition, work program, and time schedule of an appropriate task force to conduct this review of existing codes and legislation. Subsequent to the results of this review this Board will enact such ordinances and seek such actions by the State Legislature as are required to fulfill the intent of this Grand Jury recommendation.

p. 36 - RECOMMENDATION 2: "That the Members of the Board of Supervisors exercise great care in selecting and nominating members to serve on the various appointive bodies within the County. While no influence should be exercised on their appointees, it is recommended that periodic evaluations of their performance be made by the Supervisors to insure that their appointees are discharging their duties and responsibilities in a conscientious manner free from outside influence and pressure."

Mr. Harry H. Holthusen

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July 20, 1976

Comment:

This Board supports this recommendation and will seek ways and means of periodically evaluating the performance of Board appointees to County boards, commissions and committees. As an initial step, this Board herewith instructs its special subcommittee on land use decision making to accelerate its preparation of a report to this Board on actions we can take to improve the quality of the planning process. This is a primary area of immediate concern to this Board. Other actions taken to further fulfill the intent of this Grand Jury recommendation will be made known to the Grand Jury as they can be formulated and implemented. The Chief Administrative Officer is herewith directed to develop proposals for this Board's consideration as to further steps, procedures, and processes that might be undertaken to accomplish this purpose.

p. 37 - RECOMMENDATION 3: "That all candidates or elected officials carefully check all contributions to their campaigns and, without exception, refuse contributions from known or suspected organized crime figures or entities; in cases of doubt, the issue should be resolved in favor of prudence; and, if additional information is necessary, it should be requested from either the District Attorney's Organized Crime Unit or the Sheriff's Intelligence Unit on a confidential and individual basis."

Comment:

This Board herewith by resolution urges all candidates for public office to (1) seek a confidential report from the Sheriff and/or District Attorney on campaign contributors in cases of doubt and (2) avoid accepting funds or other material support for their campaigns from those found, or suspected to have ties to organized crime. Requested the info be developed a process to make this (for info)
p. 38 - RECOMMENDATION 4: "That all elected salaried and appointed officials, particularly law enforcement officers, avoid any contact with known organized crime figures or entities, except as required strictly in line of their duties."

Comment:

This Board fully supports this recommendation, and its individual members pledge to continue to adhere to it in practice and principle. Through the task force discussed under Grand Jury Recommendation 1 (above) this Board intends to take those steps necessary to assure the public that all appointed officials responsible to this Board are subject to every possible safeguard against corruption from any source or influence by elements of organized crime.

July 20, 1976

pp. 40-41 - RECOMMENDATION 6: "That the Board of Supervisors and the Superior Court support Recommendation 12 of our Final Report by seeking legislation authorizing two or more panels of the San Diego County Grand Jury as needed; each panel of the Grand Jury should be authorized to perform any and all of the Grand Jury's functions, but each panel should have designated assignments as agreed upon among the panel formen, the Presiding Judge of the Superior Court, and the District Attorney. The District Attorney and/or the formen should apply for additional Grand Jury panels. The reasons for such applications should be carefully considered when determining the assignments for the new Grand Jury panel. Grand Jury panels investigating organized crime should be investigative Grand Juries similar to those established by federal law."

Comment:

This Board supports the concept of multiple Grand Jury panels and herewith directs that our support of such enabling legislation be added to the County's legislative program for the current year.

p. 41 - RECOMMENDATION 7: "That the Board of Supervisors cause itself to be briefed at least semi-annually on organized crime conditions within San Diego County in order that it can take effective legislative action against organized crime."

Comment:

This Board supports this recommendation, and herewith directs the Chief Administrative Officer to arrange and set a date for the first semi-annual briefing of this Board. The Sheriff, District Attorney and any other official or source considered beneficial in assisting us to be knowledgeable of and legislate in the area of organized crime will be requested to participate in these briefings.

p. 42 - RECOMMENDATION 8: "That the Board of Supervisors make known to the representatives of this area in State Government that there is a pressing need for authority, properly controlled, for court-authorized wiretapping and electronic surveillance by law enforcement agencies in this county to be used only against specific organized crime operations."

Comment:

County Counsel is herewith directed to review existing State and Federal law in this regard and to report back to this Board and the Grand Jury on his findings. This Board is agreeable to pursuing this matter with the San Diego legislative delegation in Sacramento if the County Counsel report indicates that legislation in this area is feasible. The Chief Administrative Officer is also directed to contact

July 20, 1976

delegation members in this regard to (1) determine the current status of possible pending legislation in this area and (2) obtain their opinions as to the potential and need for the introduction of additional legislation to achieve the intent of this Grand Jury recommendation.

p. 43 - RECOMMENDATION 9: "That the Board of Supervisors make known to our representatives in the State Legislature the need to change California law governing witness immunity; the current law providing for "transactional" immunity should be replaced by a statute authorizing only "use and derivative use" immunity for witnesses."

Comment:

County Counsel is herewith directed to research State and Federal law with respect to witness immunity and to advise this Board of his findings. Following Counsel's report the Chief Administrative Officer is directed to have the Office of Intergovernmental Affairs (1) determine the status of any pending or proposed legislation which may relate to this subject and (2) contact the members of the San Diego legislative delegation with respect to their views on possible needed legislation in this regard. The Grand Jury will be advised of their findings and conclusions, and the Jury's counsel and participation will be sought in the development of any subsequent legislative proposals.

p. 46 - RECOMMENDATION 12: "That the County Probation Department include information showing the defendant's organized crime connections in pre-sentence reports; the reports should clearly show the source of such information."

Comment:

The Chief Administrative Officer in conjunction with the Assistant CAO-Human Resources and the Probation Officer is herewith directed to review, report on and make recommendations with respect to this matter. While this Board is supportive of the intent of this Grand Jury recommendation, we need the input of staff and the benefit of their consultation with the courts before taking a definitive position in this regard.

p. 47 - RECOMMENDATION 13: "That the Board of Supervisors request an investigation into the matter of parolees by the California Adult Authority and, if its investigation confirms our view, it make its deep concern known to the Governor and the legislators of the State of California."

Comment:

This Board herewith directs the Chief Administrative Officer in conjunction with appropriate County staff to prepare a request to the California Adult Authority in this regard. This Board, too, is deeply

July 20, 1976

concerned that the State's parole policies are such as to provide reasonable assurance to the citizenry that convicted criminals are not returned to society before they are ready to be law abiding and responsible members of the community. Depending on the Adult Authority's response to our request, this Board will take whatever action is necessary to impress this view upon State officials, including the Governor and the Legislature. This Board would especially appreciate the on-going interest and participation of the Grand Jury in this aspect of our effort on behalf of the citizens of this County.

- p. 47 - RECOMMENDATION 14: "That the Board of Supervisors, the Mayors of all the cities in San Diego County, and other officials make the needs of San Diego County for anti-organized crime activities known to the Federal Government."

Comment:

This Board supports this recommendation. We herewith request the Sheriff and District Attorney to advise us as to whether, in their opinion, additional Federal aid for anti-organized crime activity is needed in San Diego County. If they determine that additional assistance is necessary, they are requested to specify the amount so that this Board may use that information in efforts to obtain Federal aid. We urge the cooperative participation of all other concerned elected and appointed local government officials in the San Diego region to assist this Board in whatever measures are needed to combat organized crime. The Chief Administrative Officer through the Office of Intergovernmental Affairs is directed to actively solicit the interest and cooperative effort of these other local jurisdictions and officials. We further encourage them to participate in our semi-annual organized crime briefings and to otherwise share information relative to the organized crime situation in the San Diego region.

- p. 48 - RECOMMENDATION 15: "That the Board of Supervisors request the State Legislature to provide subvention funds to assist San Diego County in combatting narcotics trafficking."

Comment:

Before directing a request in this regard to the Legislature, this Board herewith requests the Sheriff and District Attorney to provide us with a report (1) on the need for subvention funds to assist in combatting narcotics trafficking and (2), if considered needed, presenting proposals for obtaining such funds.

- p. 48 - RECOMMENDATION 16: "That the Board of Supervisors request that the State Legislature establish a system of returning a percentage, if not all, of any fines levied against convicted narcotics and drug violators to the City or County where the violation occurred, to be used exclusively for narcotics enforcement. Precise accounting controls must be required."

July 20, 1976

Comment:

This Board herewith directs the Office of Intergovernmental Affairs to contact the San Diego legislative delegation with respect to the introduction of legislation permitting a portion of fines levied upon narcotics violators to be returned to local arresting jurisdictions to be expended exclusively for narcotics law enforcement activities. This Board further directs the Auditor and Controller to report to the Chief Administrative Officer on any special accounting requirements associated with this proposal. Following consultation with our legislative delegation it is the intent of this Board to add support for this type of legislation to the County's legislative program for the current year.

- pp. 48-49 - RECOMMENDATION 17: "That the Board of Supervisors request the State Legislature to require that a convicted narcotics or drug violator, as a condition of any probation, should repay all government funds expended on the purchase of evidence (i.e. narcotics contraband) which was used to apprehend and convict him."

Comment:

While this Board is in general agreement with the intent of this recommendation, before requesting such legislation we would like the benefit of comment by our County Counsel, Probation Officer and other appropriate County officers. Therefore, the Chief Administrative Officer is herewith directed to obtain and advise this Board on the comments and input of appropriate County officers regarding this recommendation.

Should this advice indicate that such a repayment requirement is feasible and of overall benefit to the County and the citizenry, appropriate legislation will be sought.

- p. 49 - RECOMMENDATION 18: "That the Board of Supervisors request the State Legislature to revise the revenue and tax laws to allow the state to confiscate and keep monies seized from convicted narcotics traffickers."

Comment:

The Chief Administrative Officer is herewith directed to review this recommendation and report back to this Board a proposed course of action within 60 days.

- p. 49 - RECOMMENDATION 19: "That the Board of Supervisors request the State Legislature to restore the formerly repealed laws requiring that motor vehicles transporting narcotics be seized by the state and should add to that statute airplanes, boats, and all other conveyances used."

July 20, 1976

Comment:

The Chief Administrative Officer is herewith directed to review this recommendation and report back to this Board a proposed course of action within 60 days.

- p. 50 - RECOMMENDATION 21: "That the Board of Supervisors make known to the representatives of their area in the State Legislature the need for legislation to be enacted to allow the treatment of juvenile drug users from the moment drug use is discovered."

Comment:

This Board herewith requests the Sheriff and the District Attorney to provide us comments on this recommendation. If they support this recommendation this Board requests them to present a specific proposal for addition to the County's legislative package.

- p. 53 - RECOMMENDATION 22: "That the Board of Supervisors make known their concerns to their elected State representatives from San Diego County of the need for the State to make it clear that it has not pre-empted local actions on the control of massage parlors."

Comment:

This Board herewith directs the Chief Administrative Officer through the Office of Intergovernmental Affairs and with the assistance of the County Counsel, to clarify through whatever channels are necessary and appropriate the State's position with respect to the control of massage parlors. A report regarding the results of this inquiry and review is to be presented to this Board and the information provided to the Sheriff and District Attorney.

- p. 55 - RECOMMENDATION 26: "That the Board of Supervisors provide permanent funding for the District Attorney's Organized Crime Unit at such time as Federal funding of that Unit is discontinued."

Comment:

It is the position of this Board that the County should support this unit should its current Federal funding be discontinued.

- p. 56 - RECOMMENDATION 28: "That the staff of the Sheriff's Intelligence Unit have available to it both attorneys and accountants, either integrated or readily accessible, as determined the most effective and economical."

July 20, 1976

Comment:

This Board herewith requests the Sheriff to provide us his comments in this regard. If the Sheriff believes this recommendation has merit, he is requested to advise us as to how to provide this type of professional assistance at the lowest possible cost to the County.

- p. 57 - RECOMMENDATION 30: "That at the earliest possible time the Sheriff apply for membership in the Law Enforcement Intelligence Unit (LEIU), and that other members of the San Diego County governmental agencies support this request."

Comment:

This Board is prepared to support the Sheriff in an application for membership in the LEIU.

- p. 57 - RECOMMENDATION 31: "That the District Attorney and the Sheriff in concert with the Chief Administrative Officer initiate action with appropriate County officials in order to achieve maximum benefit from the County Cost Accounting System and the County Accounting and Resource Management System (A.R.M.S.)."

Comment:

The Chief Administrative Officer, the Office of Management and Budget, and the Auditor and Controller are hereby directed to actively pursue this matter with the District Attorney and Sheriff. This Board is committed to these systems and is determined that they achieve maximum benefit to all departments and units within the County governmental structure.

In conclusion, this Board wishes to express its appreciation to the 1975-76 Grand Jury for its extraordinary diligence in conducting this investigation and producing this Interim Report. This Board stands ready to actively undertake a countywide effort to combat organized crime and to work cooperatively with all interested officials, jurisdictions and citizens in this regard. We would especially solicit the continuing participation, advice and assistance of the Grand Jury in this undertaking.

LEE TAYLOR, Chairman
Board of Supervisors

LT:FH:bh

No. 107

There is presented to the Board a letter from the Chief Administrative Officer concerning the Grand Jury Interim Report on organized crime in San Diego County and recommending the Board consider, discuss and refer the report to the Chief Administrative Officer for the preparation of a proposed written response on the findings and recommendations, all as more fully set out in Board of Supervisors Document No. 524887.

There now is presented to the Board a letter from Supervisor Walsh (Board of Supervisors Document No. 525177) concerning the Grand Jury recommendations on organized crime and making the following recommendations for Board action relative thereto:

instruct the subcommittee on land use decision-making, formed as a result of the Armstrong indictment, to move more quickly in preparing its report on actions the Board can take to improve the quality of the planning process;

establish a task force to suggest additional safeguards against corruption of elected and appointed officials;

adopt a resolution urging all candidates for public office to seek a confidential report from the Sheriff and District Attorney on potential campaign contributors and avoid taking money from those found to have ties to organized crime;

ask the San Diego legislative delegation to introduce legislation authorizing the creation of dual Grand Jury panels as recommended in the Grand Jury report and that support of such legislation be added to the County's legislative package;

ask the Chief Administrative Officer to set a date for the first semi-annual organized crime briefing by the Sheriff and the District Attorney;

request an investigation by the California Adult Authority into its parole policies to determine whether criminals are being returned to society before they are ready to be reasonable and responsible citizens;

ask the Sheriff and the District Attorney to report to the Board on whether additional federal aid for anti-organized crime activity is needed in San Diego County, and if so, they specify the amount so the Board can use that information in efforts to obtain the assistance;

ask the San Diego legislative delegation to introduce legislation permitting a portion of fines levied upon narcotics violators to be given to law enforcement agencies to be used in narcotics activities and that support of such legislation be added to the County's legislative package;

ask the Sheriff and the District Attorney to report on the need for subvention funds and present proposals for obtaining them;

ask the Sheriff and the District Attorney to comment on the Grand Jury's recommendation that legislation be enacted which allows treatment of juvenile drug users from the moment drug use is discovered and, if the Sheriff and the District Attorney support this recommendation, they be asked to present a specific proposal for addition to the County's legislative package;

pledge to provide permanent funding for the District Attorney's Organized Crime Unit at such time as federal funding of it is discontinued;

ask the Sheriff to comment on the Grand Jury's recommendation that his Intelligence Unit have available to it both accountants and attorneys, and if the Sheriff feels the recommendation has merit, he be asked to comment on how to provide this professional assistance at the lowest possible cost to the County;

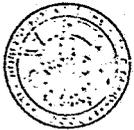
direct the Chief Administrative Officer to report a recommended course of action to the Board regarding the Grand Jury's recommendations on witness immunity, wiretapping regulations and seizure of narcotics convicts, automobiles and property.

ON MOTION of Supervisor Walsh, seconded by Supervisor Brown, the Board refers the Grand Jury Interim Report on Organized Crime in San Diego County and the recommendations presented relative thereto to the Chief Administrative Officer for the preparation of a written response for Board consideration July 27, 1976.

Roll call on the foregoing motion results in the following vote:

AYES: Supervisors Walsh, Brown, Conde, Bates and Taylor
NOES: Supervisors None
ABSENT: Supervisors None

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COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

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July 13, 1976
Board of Supervisors

DATE July 13, 1976

TO: Board of Supervisors

FROM: First District Supervisor

SUBJECT: GRAND JURY RECOMMENDATIONS ON ORGANIZED CRIME

On July 7, 1976, the San Diego County Grand Jury issued a report entitled "Organized Crime in San Diego County". The report contained a number of specific recommendations directed toward the Board of Supervisors intended to improve governmental response toward organized crime in our community.

Some of the areas addressed by the Grand Jury have already been the subject of action by this Board. The Grand Jury's recommendations show a need for renewal and expansion of our efforts in these areas.

Other recommendations are directed toward subjects which have not previously been acted upon by the Board. This fact does not lessen the importance of these recommendations.

I feel that the Board should not delay in moving to implement the Grand Jury's suggestions. The threat represented by organized crime is too great for government officials to be lax in moving to counter it.

There, it is my recommendation that:

1. The Board instruct its subcommittee on land use decision-making, formed as a result of the Armstrong indictment, to move more quickly in preparing its report on actions the Board can take to improve the quality of the planning process. I proposed creation of the subcommittee several months ago with an intent identical to that contained in recommendation 2 of the Grand Jury report: that the Board act to "insure that their appointees are discharging their duties and responsibilities in a conscientious manner free from outside influence and pressure."
2. That the Board establish a task force to suggest additional safeguards against corruption of elected and appointed officials.

3. That the Board adopt a resolution urging all candidates for public office to seek a confidential report from the Sheriff and District Attorney on potential campaign contributors and avoid taking money from those found to have ties to organized crime. I sought such reports from the Sheriff in the June 8 primary election and found him to be cooperative in answering my requests for information.

4. That the Board ask the San Diego legislative delegation to introduce legislation authorizing the creation of dual Grand Jury panels as recommended in the Grand Jury report and that support of such legislation be added to the County's legislative package.

5. That the Board ask the Chief Administrative Officer to set a date for the first semi-annual organized crime briefing by the Sheriff and the District Attorney.

6. That the Board request an investigation by the California Adult Authority into its parole policies to determine whether criminals are being returned to society before they are ready to be reasonable and responsible citizens.

7. That the Board ask the Sheriff and the District Attorney to report to the Board on whether additional federal aid for anti-organized crime activity is needed in San Diego County. If these officials determine that additional aid is necessary, they should specify the amount so that the Board can use that information in efforts to obtain the assistance.

8. That the Board ask the San Diego legislative delegation to introduce legislation permitting a portion of fines levied upon narcotics violators to be given to law enforcement agencies to be used in narcotics activities and that support of such legislation be added to the County's legislative package.

9. That the Board ask the Sheriff and the District Attorney to report on the need for subvention funds and present proposals for obtaining them.

10. That the Board ask the Sheriff and the District Attorney to comment on the Grand Jury's recommendation that legislation be enacted which allows treatment of juvenile drug users from the moment drug use is discovered. If the Sheriff and the District Attorney support this recommendation they should be asked to present a specific proposal for addition to the County's legislative package.

11. That the Board pledge to provide permanent funding for the District Attorney's Organized Crime Unit at such time as federal funding of it is discontinued.

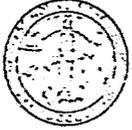
Page 3
July 13, 1976
Board of Supervisors

12. That the Board ask the Sheriff to comment on the Grand Jury's recommendation that his Intelligence Unit have available to it both accountants and attorneys. If the Sheriff feels the recommendation has merit, he should be asked to comment on how to provide this professional assistance at the lowest possible cost to the County.

13. That the Board direct the Chief Administrative Officer to report a recommended course of action to the Board regarding the Grand Jury's recommendations on witness immunity, wire-tapping regulations and seizure of narcotics convicts' automobiles and property.

My recommendations cover all the areas in which the Grand Jury directed suggestions toward the Board of Supervisors. I think it is imperative that we act on them.


JACK WALSH



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

July 7, 1976

TO: Board of Supervisors
FROM: Chief Administrative Officer

GRAND JURY INTERIM REPORT - ORGANIZED CRIME IN SAN DIEGO COUNTY

On July 7, 1976 the Grand Jury issued an interim report entitled, "Organized Crime in San Diego County." Copies of this report have been provided to the Members of your Board and filed with your Clerk. In accordance with your Policy A-43, "Response to Grand Jury Interim Reports," it is my

RECOMMENDATION: That your Board

1. Consider and discuss the Grand Jury interim report, "Organized Crime in San Diego County."
2. Refer the report to the Chief Administrative Officer for the preparation of a proposed written response by your Board to its findings and recommendations.

Discussion

This interim report contains 31 recommendations. A number of them are directed to your Board or pertain to matters within the jurisdiction of your Board and are, therefore, appropriate for your consideration and response.

I shall have a proposed written response back before your Board in sufficient time to submit it to the Grand Jury within 60 days of the issuance of this interim report.

D. K. Speer
D. K. SPEER
Chief Administrative Officer

(GRAND JURY INTERIM REPORT DISTRIBUTED TO BOARD MEMBERS AND ON FILE IN THE OFFICE OF THE CLERK OF THE BOARD)

Board of Supervisors

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July 7, 1976

FISCAL IMPACT STATEMENT

PROGRAM: Grand Jury Proceedings

REMARKS: No fiscal impact as a result of this report.

ADVISORY BOARD STATEMENT: None required at this point in the review process.

DKS:FH:bh

cc: Foreman, 1975-76 Grand Jury
Foreman, 1976-77 Grand Jury
Presiding Judge, Superior Court
Assistant CAO-Fiscal & Justice
County Counsel
Auditor & Controller

The Superior Court

COUNTY OF SAN DIEGO
GRAND JURY
220 WEST BROADWAY, ROOM 7003
SAN DIEGO, CALIFORNIA 92101

July 7, 1976

Honorable Eli H. Levenson
Presiding Judge of the Superior Court
County of San Diego
220 West Broadway, Room 7003
San Diego, California 92101

Dear Judge Levenson:

Forwarded herewith is the 1975-76 Grand Jury's Sixth Interim Report, ORGANIZED CRIME IN SAN DIEGO COUNTY. For reasons known to you, it is issued subsequent to our Final Report.

In conducting its investigation, to quote from the report, "The Grand Jury appreciated that it could not turn itself into a police agency to run down criminals." We also appreciated that we were dealing with sensitive intelligence matters and were determined that neither our investigations nor our report would jeopardize actions against organized crime, now or in the future. For these reasons we did not try to identify organized crime figures or entities, or become too specific in our report. The identification, apprehension, and prosecution of organized crime figures is not the function of the Grand Jury at this time, and to have attempted to enter into these functions would have been an error of major proportions.

We did attempt to determine if organized crime was present in San Diego County; what actions were being taken to deal with the organized crime problem; whether these steps were effective; whether the monies allocated for these operations were being properly accounted for, and (if possible) well-spent; and finally, to develop recommendations which would improve anti-organized crime operations, but make certain stipulations. To once again quote from the report, "The Grand Jury of necessity had to rely on the opinions and testimony of those qualified on the subjects of organized crime and law enforcement." We were also dependent upon investigators provided by the District Attorney's Office. In our judgment they did a highly creditable job. We followed each and every allegation, complaint and lead. Obviously we were not able to certify that no illegal actions had taken place, only to once again quote from the report, "that based upon an

36367

Honorable Eli H. Levenson

July 7, 1976

Page 2.

adequate investigation and from the evidence it (the Grand Jury) saw and the testimony it heard, either the allegations made were without foundation or could not at this time be made the basis for criminal prosecution." We did consider that many errors of judgment were evident and cited them in the report, in many cases with recommendations for improvement.

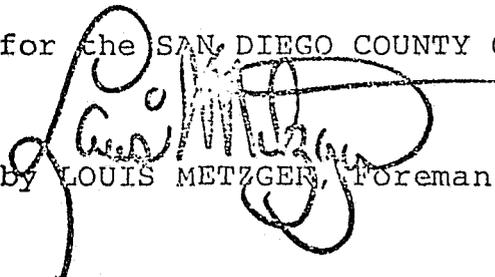
It is our hope that this report will receive wide publicity in the news media so that the public can be alerted to the ever-present danger of organized crime and that pressure will be maintained on our elected representatives to take appropriate actions to counter this threat.

It should be stated here that this investigation and report were the sole products of the Grand Jury, and that no individual or agency attempted to guide or shape our views and findings. The District Attorney's Office provided a vast amount of assistance and support, but always maintained its proper role as legal advisor. We would be remiss not to express our appreciation for the literally thousands of man-hours which were required from his office, and which were so willingly provided. Mr. Richard D. Huffman, the Chief Deputy District Attorney, became ill in the course of the investigation. He was succeeded by Mr. Brian E. Michaels. Both were men of the highest character and integrity, great legal ability and extremely knowledgeable on the subject of organized crime.

Last, but certainly not least, we desire to thank you, the Presiding Judge of the Superior Court, for the constant support and encouragement which you provided the Grand Jury during this undertaking. It is the continuation of our very happy, and hopefully fruitful, relations which have existed this past year. Without it we could not have accomplished the many projects which we have undertaken.

Very truly yours,

for the SAN DIEGO COUNTY GRAND JURY


by LOUIS METZGER, Foreman

LM:jml

Honorable Eli H. Levenson

July 7, 1976

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cc: Board of Supervisors, County of San Diego
Chief Administrative Officer, County of San Diego
District Attorney, County of San Diego
Sheriff, County of San Diego
Probation Department, County of San Diego
Southern California County Grand Juries

Mayor, City of San Diego
Mayors, Other Incorporated Cities in San Diego County
Chief of Police, City of San Diego

Each U. S. Senator, California
Each U. S. Congressman, San Diego
Federal Strike Force, Los Angeles

Each Rep. San Diego County in State Legislature
Office of the Attorney General
California Adult Authority

Peat, Marwick, Mitchell & Co.

Enclosure (1)

END