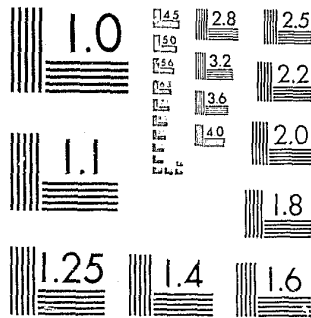


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United States Department of Justice
Washington, D. C. 20531

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**Report
and
Recommendations
of the
STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION
on
ABUSES and IRREGULARITIES
in
NEW JERSEY'S BOARDING HOME INDUSTRY**

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State of New Jersey

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ACQUISITIONS

Report

and

Recommendations

of the

STATE OF NEW JERSEY

COMMISSION OF INVESTIGATION

On

Abuses and Irregularities

in New Jersey's Boarding Home Industry



State of New Jersey
COMMISSION OF INVESTIGATION

28 WEST STATE STREET
TRENTON, N.J. 08608
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November, 1978

TO: *The Governor and the Members of the Legislature
of the State of New Jersey:*

The New Jersey State Commission of Investigation herewith submits its Report and Recommendations on its Investigation of the Abuses and Irregularities in the Operation of the Boarding Home Industry in New Jersey. This transmittal is made under Section 10 of P.L. 1968, Chapter 266 (N.J.S.A. 52:9M-10), the Act creating the Commission.

Respectfully Submitted,

Joseph H. Rodriguez, *Chairman*
Lewis B. Kaden, *Commissioner*
Arthur S. Lane, *Commissioner*

Investigation of Abuses and Irregularities
in New Jersey's Boarding Home Industry

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INVESTIGATION OF THE ABUSES AND IRREGULARITIES
IN NEW JERSEY'S BOARDING HOME INDUSTRY

BACKGROUND

The Commission's investigation of abuses and irregularities in New Jersey's boarding homes focused on an industry consisting of an estimated 1,800 facilities serving upwards of 40,000 people, most of whom are elderly and disabled. The absence of more precise data on what and who comprise this troubled industry reflects the haphazard nature of the statutory and regulatory controls over it.

These boarding facilities, as the Commission depicted* at its public hearings, are assigned to one of two categories -- licensed or "unlicensed." The former group consists of about 275 boarding homes under State Department of Health licensure. But the unlicensed category is further divided, the largest subgroup of which is subject to nominal registration and inspection by the State Department of Community Affairs. A smaller bloc comes under local jurisdiction. Finally, an unknown number of facilities operate illegally, devoid of any controls whatsoever.

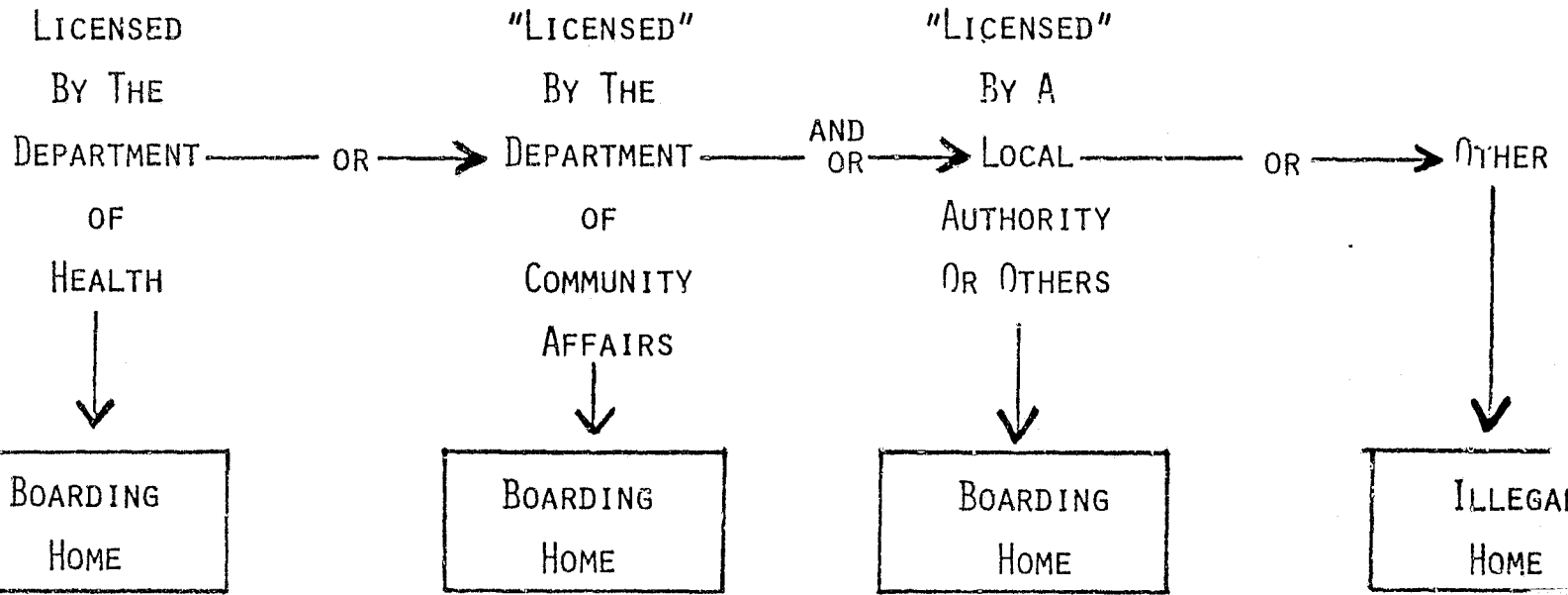
The fact that more than 1,500 boarding homes are commonly referred to as "unlicensed" further underscores the negative quality and lax enforcement of whatever standards that do exist for regulating and otherwise monitoring their activities.

Of New Jersey's total boarding home population, close to 10,000 reside in the homes licensed for sheltered care purposes by the State Health Department. They live in facilities that supposedly are under the closest scrutiny, offer the most personal care and are subject to the most stringent standards. They house a minimum of four residents, at least one of whom must be receiving supervision, and are inspected at least once a year. Their monthly boarding rates are generally the highest. However, despite tighter controls than are imposed on other boarding homes, some Health Department-licensed facilities were targets of harsh critiques during the Commission's public hearings.

The remaining 30,000 boarding home residents are found in the so-called unlicensed establishments. Most of these places provide only room and board and cannot legally offer sheltered care or other supervision. Since most of these boarding homes are registered with the Community Affairs

*See Chart, P. 1-a.

BOARDING HOMES



1-a

JURISDICTION:

4 OR MORE RESIDENTS
AND AT LEAST 1
RECEIVING SUPERVISION

3 OR MORE
UNRELATED
RESIDENTS

VARIABLES
WITH
LOCALITY

WITHIN A
LICENSING
JURISDICTION
BUT WITHOUT
AN APPROPRIATE
LICENSE

INSPECTIONS:

ANNUALLY

EVERY 3 YEARS
FOR LARGE HOMES

VARIABLES
WITH
LOCALITY

PRIVATE
HOME
EXCEPTION

SERVICES:

SUPERVISION
ROOM AND BOARD

ROOM AND BOARD

ROOM AND BOARD

2 OR LESS
UNRELATED
RESIDENTS

Department under New Jersey's Multiple Dwellings Law, they are subject to scrutiny by state or local inspectors only once every five years if they house from three (the minimum requirement) to nine residents or only every three years if there are ten or more boarders. Moreover, since these inspections are mandated by a law that is not designed to provide guidelines for social services, they concentrate only on structural factors relative to public health or safety. Thus, such inspections ignore the overall adverse social climate in which many boarders find themselves. As for boarding homes that are under smaller jurisdictions, inspection or other supervision of them, if any, varies from locale to locale.

Most residents are referred to boarding homes by hospitals and mental institutions and by county and local welfare agencies,* although many also are placed by families or arrive on their own. As for boarders who are former mental patients**, their placement sources vary. Many of course come directly from hospitals or via the hospital Family Care Program. Some are processed by the relatively new Bureau of Transitional Services. Some come from welfare agencies and still others are placed by private or semi-private agencies, by families or by themselves.

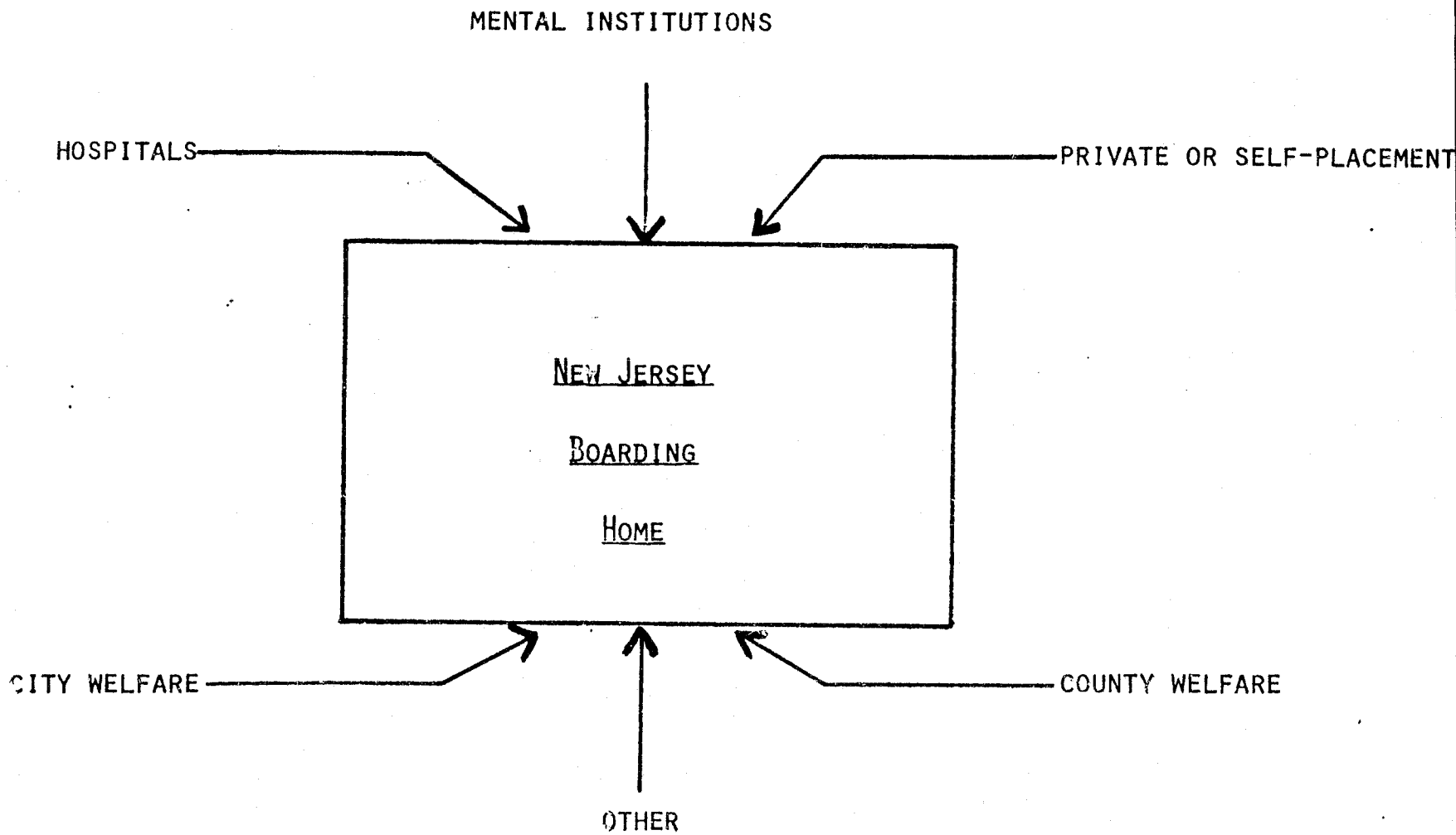
As the Commission has emphasized, its primary concern throughout its investigation and public hearings has been for the wellbeing of the most vulnerable of the 40,000 human beings forced to subsist in a system that presently offers no feasible alternative solutions to the special problems that make them such easy prey for unscrupulous operators. The Commission's inquiry, therefore, centered on the multitude of boarders who, because of old age, blindness or other disabilities, are eligible for the Federal Social Security Administration's Supplemental Security Income (SSI) benefits. Such SSI recipients are not only numerous among residents of boarding homes licensed by the State Health Department but comprise many of the 30,000 residing in unlicensed facilities.

The Supplemental Security Income or SSI federal system replaced a State of New Jersey welfare program for the aged, blind and disabled in January, 1974. However, the state, by agreement with the Social Security Administration, continued to contribute partial financial support of the elderly, infirm and impoverished SSI populace in the form of allotments of varying amounts that are included in the monthly SSI

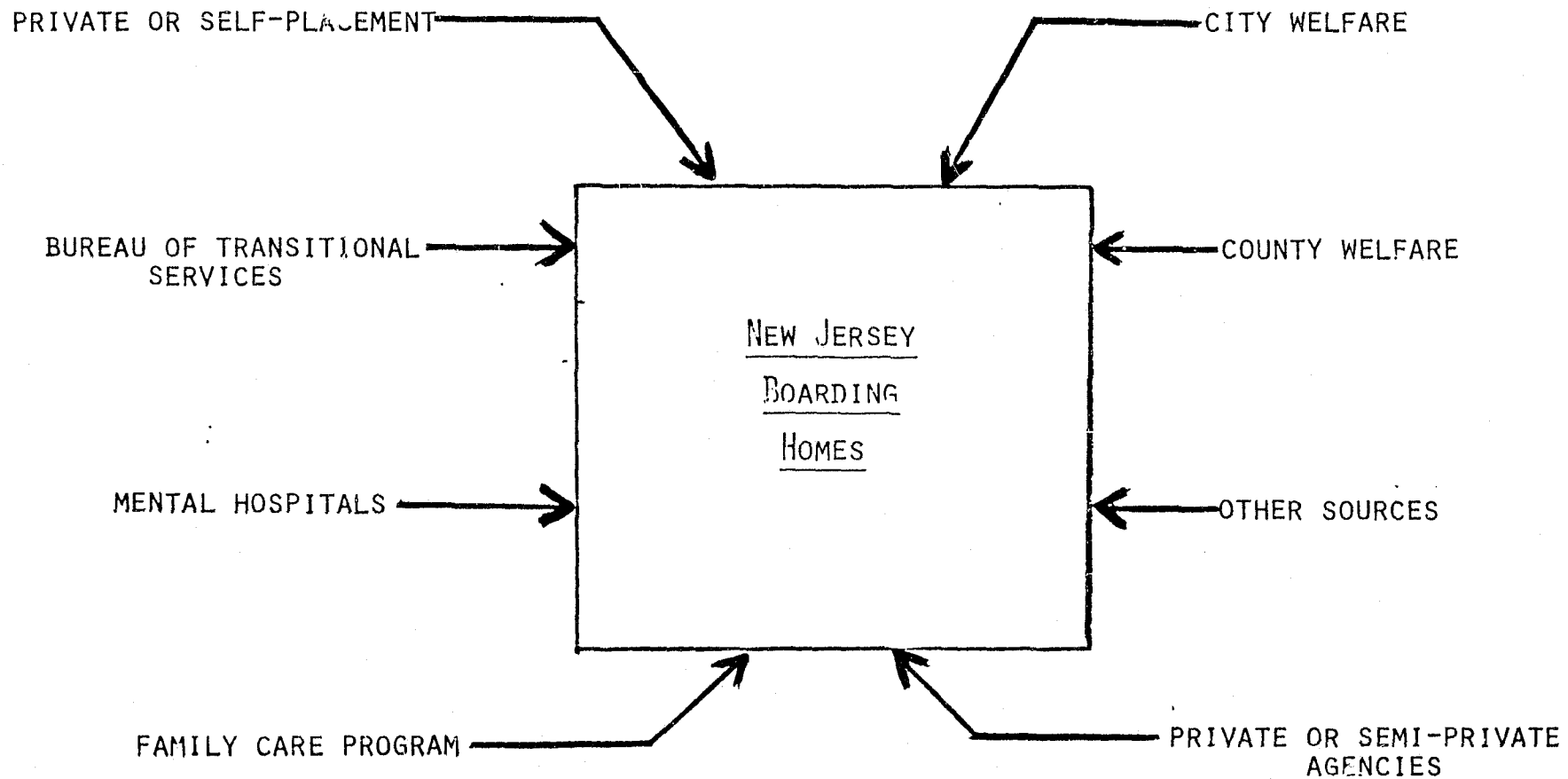
*See Chart P. 2-a.

**See Chart P. 2-b.

SOURCES OF RESIDENT REFERRAL



PLACEMENT OF PATIENTS
DISCHARGED FROM MENTAL HOSPITALS



checks issued to eligible recipients. At the time of the Commission's hearings, the federally processed checks consisted of an SSI benefit of \$177.80 as well as a state of New Jersey supplement of either \$130.20 or \$22.20.* The higher state supplement was included in checks amounting to at least \$308 (see additions for unearned income from sources other than SSI on previously cited chart) that were mailed to eligible SSI residents of Health Department-licensed boarding homes. The smaller state supplement was part of the federal SSI checks amounting to at least \$200 that went to eligible residents of all other boarding homes. As the Commission's public hearing record was to demonstrate, this difference in the size of SSI checks mailed to residents of licensed versus unlicensed boarding homes fueled the greed of some operators.

Compounding the tragic problems besetting the boarding home industry has been the officially proclaimed national and state policy of "de-institutionalization." This humane, progressive concept has as its primary objective the return to society of mental patients found to be most capable of an enduring separation from continuous custodial confinement. The apparent merits of this concept spurred its implementation over the years to a degree that caused the permanent population of New Jersey's psychiatric hospitals to plummet.** This came about as discharges of patients rose to only slightly less than the level of each year's admissions, even though the latter maintained a constant but gradual rise.

However, aggressive implementation of "de-institutionalization" was marked, unfortunately, by a failure to adequately prepare for what has become too abrupt a transition from confined care for many former mental patients lacking sufficient self-reliance. As the public hearing testimony would illustrate, the state's boarding home population became increasingly dominated by such boarders thrust with little or no follow-up attention from close custodial care into a mostly unconcerned, unsupervised, unsanitary and often unsafe community environment.

Yet "de-institutionalization" has been but one of many complex factors that have combined to literally trap many old and infirm citizens in New Jersey's boarding home world. As S.C.I. Chairman Joseph H. Rodriguez was to observe at the conclusion of the Commission's final public hearing session: "'Trapped' is the one word that applies with the most tragic

*See Chart p.3-a.

** See Chart P.3-b.

SUPPLEMENTAL SECURITY INCOME (S.S.I.)

<u>BOARDING HOME LICENSURE</u>	<u>FEDERAL BENEFIT</u>	<u>NEW JERSEY SUPPLEMENT</u>	<u>STATE STANDARD</u>
DEPARTMENT OF HEALTH	\$177.80	\$130.20	\$308.00
OTHER LICENSURE OR PRIVATE HOME EXCEPTION	\$177.80	\$ 22.20	\$200.00

-3-a-

WITH UNEARNED INCOME FROM SOURCES OTHER THAN S.S.I., E.G.: VETERAN'S BENEFITS, SOCIAL SECURITY,
ETC., TOTAL BENEFITS ARE:

DEPARTMENT OF HEALTH LICENSED BOARDING HOME \$328.00

OTHER LICENSED BOARDING HOME OR
PRIVATE HOME EXCEPTION \$220.00

NEW JERSEY STATE
PSYCHIATRIC HOSPITALS *

<u>FISCAL</u> <u>YEAR</u>	<u>TOTAL</u> <u>POPULATION</u>	<u>ADMISSIONS</u> <u>(1)</u>	<u>DISCHARGES</u> <u>(2)</u>	<u>RATIO OF</u> <u>(2) TO (1)</u>
1964	13,610	9,596	5,903	.615:1
1965	12,933	9,333	5,574	.597:1
1966	12,195	10,347	8,159	.788:1
1967	11,420	10,890	8,901	.817:1
1968	10,197	11,319	9,852	.870:1
1969	9,252	11,622	10,173	.875:1
1970	8,576	12,558	10,999	.875:1
1971	7,975	12,627	11,312	.896:1
1972	7,175	13,060	11,367	.909:1
1973	6,839	12,740	11,286	.886:1
1974	6,333	12,951	11,321	.913:1
1975	5,836	11,755	10,741	.914:1
1976	5,117	11,107	10,345	.931:1
1977	4,111	10,721	9,983	.931:1

* ANCORA, GREYSTONE, MARLBORO, TRENTON, AND NEURO PSYCHIATRIC INSTITUTE

accuracy to the elderly and disabled who must reside by no choice of their own in boarding homes."

THE INVESTIGATION

Since the Commission was primarily concerned, as noted, about the treatment of the 40,000 residents of boarding homes in this state, its investigative effort centered on boarding home operators, the books and records (if any) that they kept, the vendors with whom they dealt, and the conditions apparent in the facilities themselves. In pressing its inquiry, the Commission also questioned at length, in private as well as in public sessions, many federal, state and local officials directly and indirectly concerned with the regulation and surveillance of boarding homes and who were required to have at least some financial or social responsibility for the plight of boarders. In addition a number of boarding home employees and boarders themselves were interrogated. As is customary in Commission investigations, factual corroboration was required for every allegation of personal abuse or fiscal irregularity before its inclusion in the testimonial agenda of the Commission's public hearings.

The Commission began evaluating boarding home conditions in the late Summer of 1977 as the industry came under increasing scrutiny by other state agencies and the press. The official reports and investigative news stories that resulted from these explorations were effective in generating increased public alarm over obviously flagrant mistreatment of a large number of boarding home residents. Fatal fires in boarding homes in Long Branch and Camden, among numerous publicized incidents involving boarders, further aggravated public and official qualms about certain of these facilities. The Commission's evaluation, which quickly became a full-fledged probe, also confirmed early-on that it would be an exceedingly complicated investigative project.

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

Because of inadequate (and often the absence of) account books, registers and other records reflecting the flow of revenues, costs, and clients of boarding homes, the Commission's staff accountants had to reconstruct numerous financial profiles in order to ascertain the true extent of the mismanagement of these facilities and the resultant abuses against boarders that such misconduct generated. The facts exposed by such audits were confirmed and supplemented through field inquiries by the Commission's special agents. This investigative team work revealed a wide gamut of irregularities and improprieties -- the diversion of SSI checks from boarders to the personal use of operators, charging of luxury cars, vacation travel and other personal expenses as business costs, an inordinate use of cash in payment of boarding home bills without supportive receipts, little or no accounting of meager personal funds doled out to boarders each month, excessive compensation to operators and to relatives of operators, use of unlicensed satellite facilities as way stations for boarder-transfers that improperly increased the cash flow into licensed homes of bigger SSI checks than warranted, the serving of cheap, substandard food even while the operators netted disproportionately large profits. As in certain of the Commission's past inquiries -- the most recent being the probe of the state-funded program for handicapped children -- this investigation again illustrated the proclivity for misconduct by some private operators of essential social services largely financed with public funds.

THE PUBLIC HEARINGS

Because of the complexity of the issues involved in the problems that plague the boarding home industry, the Commission was obliged to extend its public hearings through an entire week. This enabled a thorough daily presentation for five successive days of major facets of the adverse conditions that the Commission's investigation had confirmed. In order to further present the problems in as clear a manner as possible, specific investigative and public hearing responsibilities were allocated among the Commission staff lawyers, Peter M. Schirmer, who led the investigative unit, Neil J. Casey III, and Robert M. Tosti. In all, about 60 witnesses were questioned during the five public hearing days -- Monday, June 26 through Friday, June 30, 1978. Close to 200 exhibits were introduced. Many of the exhibits consisted of charts illustrating various aspects of the boarding home business, including

the source of referrals of boarders to these facilities, the way the Supplemental Security Income system is supposed to work, and the various purposes to which individual boarding home operators applied their revenues (based on staff audits).

For the first time the Commission's public hearings received continuous start-to-finish daily coverage by NJPTV, New Jersey's public television station, complete with authoritative factual opening projections and closing summaries each day. This and other television activity and extensive coverage by all major newspapers gave unusually wide exposure to the Commission's public hearings.

In the public announcement of the Commission's hearings, Chairman Joseph H. Rodriguez observed that, despite the wide range of the abuses in the boarding home system, a number of operators were nonetheless attempting to meet their obligations. He stated:

"As in our previous public hearings involving improprieties and irregularities in programs enacted to serve vital public needs, the Commission emphasizes that its objective here is to propose and to help expedite corrective actions that not only will assure the continuation of such programs but also whatever expansion of them is necessary to meet the needs."

S.C.I. Director Siavage at the same time expressed the Commission's appreciation for the cooperation of legislative and executive branch officials, including the Attorney General's office and the Department of Health and Human Services. He reiterated to pertinent legislative committee leaders the Commission's desire to work closely with them in implementing the corrective legislation that would follow the hearings. On the eve of the hearings, Senator Anthony Scardino Jr., chairman of the Senate Institutions, Health and Welfare Committee, issued a statement applauding the S.C.I. public hearing action and pledging an expeditious legislative response.

OPENING STATEMENT

As customary, Commission Chairman Rodriguez prefaced the start of the public hearings on June 26, 1978, with a statement explaining the nature and purpose of the proceedings. He said, in part:

Before the questioning of witnesses begins, I wish to make a brief opening statement in behalf of the Commission, explaining the scope of these public hearings, the range of the problems that will be reviewed, and the Commission's objectives in conducting this inquiry.

The scope of the Commission's investigation is defined, as required by law, on the official notices served on all witnesses who will testify here. These notices describe the areas of inquiry as follows:

Whether the laws and regulations of the State of New Jersey are being complied with, faithfully executed and effectively enforced and whether the existing laws and regulations are adequate with particular reference to licensed and unlicensed boarding homes and the Supplemental Security Income Program (SSI) including, but not limited to, the placement of SSI recipients in boarding homes, the quality of care and living conditions in these homes, the delivery of supportive services to SSI recipients residing in boarding homes, and whether State, County and Municipal officials are carrying out their prescribed duties in regard to boarding homes and SSI recipients.

However, that statement on the witness subpoenas only suggests the wide range of the areas of irregularities and improprieties on which this week's hearings will focus. The testimony certainly will demonstrate that, from the standpoint of hundreds of aged and infirm residents trapped in the system by circumstances beyond their control, the laws and regulations governing boarding homes in New Jersey are not being fully complied with, are not being faithfully executed and are not being effectively enforced. These failures clearly establish the boarding home system as an appropriate target of investigatory and public hearing action under the statute creating the S.C.I. and stipulating its responsibilities.

As the Commission's hearings will further demonstrate, the inadequacy and ineffectiveness of the laws and regulations governing boarding home's have been compounded by an administrative

maze of overlapping, uncoordinated, conflicting and sometimes incomprehensible governmental procedures.

Because of the extremely complex nature of the overall boarding home program, I want to explain briefly the particular areas of greatest concentration by the Commission in this investigation.

The Commission's primary concern, of course, is for the human beings who are being victimized by the system. These are the boarding home residents whose personal misfortunes have made them particularly vulnerable to exploitation by certain boarding home operators. Often without family ties, and frequently unable to manage themselves, many boarders lack even the capacity to complain against the squalor of their surroundings or the cruelty of their treatment.

While residents of boarding homes come from a variety of referral sources, the S.C.I. centered its inquiry on those admitted from mental and other hospitals and from welfare agencies -- in essence, that segment of the boarding home population least able to fend for itself and thus more likely to be poorly housed, illfed, mentally and physically intimidated and otherwise abused. As a result of a continuing official policy of de-institutionalization, an ever-increasing number of the more defenseless boarding home residents are former mental hospital patients.

The individuals for whom this Commission speaks find themselves in boarding facilities of wide-ranging but often questionable quality, run by mostly untrained, nonprofessional private entrepreneurs, subject to varying degrees of licensure, regulation and inspection of limited impact, and under the supposed supervision of a confusing array of governmental agencies.

The Commission's investigation, particularly of fiscal irregularities, has been seriously impeded by the inadequacy of the books and records maintained by a number of facilities, particularly by some operators whose methods raised serious questions of profiteering and worse.

Nonetheless, a reconstruction of these records corroborated by intensive field probes by the Commission's special agents and agent-accountants into the operations of more than a score of boarding homes -- as the public record of these hearings will show -- has revealed an insensitivity on the part of many in the industry to the most elementary personal needs of the occupants of these facilities. Bad and insufficient food, filthy surroundings, physical and mental indignities are all a sorry part of the day-to-day life of many impoverished and handicapped boarders who have been thrust too suddenly from the security of institutionalized custody into unreceptive community environments without sufficient regard for what will happen -- or is happening -- to them.

I wish to express the Commission's gratitude for the cooperation and professional guidance of many legislative and executive officials and agencies, most notably the Attorney General's Office and the Department of Health and Human Services. I must emphasize that, at the termination of these public sessions, we will continue to maintain close liaison with appropriate executive authorities, including the Governor's Cabinet Task Force, and legislative committees such as the Senate and Assembly Institutions, Health and Welfare Committees, as we proceed to the preparation of our conclusions and recommendations.

For the present, I want to reiterate that we do not, of course, mean to detract from the efforts of a number of responsible boarding home proprietors operating legitimate and adequate establishments despite the adverse conditions which I have outlined. The Commission also fully realizes the need for some kind of a proper and feasible community sheltering program that will more suitably and equitably accommodate the needs. We hope to help achieve this goal by spurring a strong public and legislative demand for the swift enactment of reforms that will eliminate the abuses that these public hearings will confirm.

THE TESTIMONY - - First Day

An Overview

Mr. David A. Wagner, the Deputy Commissioner of Health, was a most logical and qualified witness with which to launch the public hearings, particularly in view of Chairman Rodriguez's opening statement. As deputy commissioner, all who are in charge of the licensing and inspection of health facilities report to him. He also chaired Health Commissioner Joanne Finley's Commissioner's Advisory Committee on Boarding Homes, and he has long been a respected authority in the health care field.

Commission Counsel Peter M. Schirmer:

Q. Mr. Wagner, you have been invited by the State Commission of Investigation to these five-day public hearings on the boarding home and boarding home problem in New Jersey in order to give an overview of the different types of boarding homes as well as the regulations governing those homes. Are you familiar with those areas?

A. Yes, I am.

Q. What is a boarding home?

A. A boarding home is presumably a residence which is providing a home atmosphere in which persons are given basic room and board up through supervision of the individual and supervision of some elements of personal care.

Q. How many residents might a boarding home contain?

A. Well, they range anywhere from two to, in some cases, as many as two-hundred.

Q. What type of individuals reside in boarding homes?

A. The type of individuals range from the elderly and infirm through people who have mental or physical disabilities, down to people who have been former residents in mental health facilities.

Q. Where do the people in boarding homes come from?

A. Well, as your chart indicates, they come from mental institutions; they come from hospitals. They are sometimes placed privately either through

physicians or through their own family. They come in through city and county welfare departments and they may come in off the street or through some other intersection, by friend or relatives.

Q. You mentioned mental institutions, Mr. Wagner. Are mental institutions a major source of residents for the boarding homes in New Jersey?

A. Yes, they are.

Q. Could you describe the source of income of the boarding home residents?

A. Again, there is a range. It may be an individual's private income or from some sort of pension that he's acquired over the years; through social security; through SSI; through veterans' pensions or through support of their families.

Q. You mentioned that city welfare is a funding source.

A. Yes, that is also a funding source.

Q. Mr. Wagner, for the purpose of the next series of questions I'm going to put up a chart marked C-2* for identification. This chart, Mr. Wagner, I will represent was prepared by the State Commission of Investigation and it will represent the different licensing authorities in the State of New Jersey. I would ask you to look at the chart, familiarize yourself with the chart and then I'll give you a series of questions concerning that chart.

A. Sure.

Q. Referring to the chart, Mr. Wagner, could you explain the various licensing authorities which regulate boarding homes in the State of New Jersey?

A. Okay. Sheltered boarding homes, under Chapter 136 are considered health-care facilities and they are licensed by the Department of Health. They involve four or more residents. These facilities provide personal services. They are inspected annually by the Department. Those under the jurisdiction of the Department of Community Affairs are registered by the Department on a provision of a ten-dollar fee. They relate to three or more residents. Those which are -- which have more than ten

*See chart in Introduction, P. 1-a.

residents are inspected every three years; those with less every five years. Primarily they provide just room and board, sometimes less, and let me see. I think we covered all those.

Local authority, it varies from locality to locality. In some cases they are inspected under mercantile license and they are primarily concerned with building structure and fire codes. In other cases, they may be licensed by a local health department and they are more in that situation concerned with local state sanitation codes. Again, for the most part, they provide just basic room and board.

The private home exception as it's labelled here usually relates to boarding homes of two people or less. Quite frequently you might find those in college or university towns where they're housing college students, and then there is a whole series of illegal homes which might very well escape the other licensure jurisdiction that you have outlined on your chart here.

Q. If a home, a boarding home had a number of individuals in that home all requiring supervision but the operator was not giving supervision, would those homes have to be licensed by and inspected by the Department of Health?

A. Yes, they would.

Q. Could you describe the inspection program of boarding homes licensed by the Department of Health as far as the frequency of those inspections and the focus of the investigation -- inspections?

A. Yes. Yes, the Department of Health inspects sheltered boarding homes under a sheltered boarding home manual which has been approved as a regulation by the Health-Care Administration Board. The Department is concerned about a variety of things: First, the construction of the building and certain safety and fire requirements; second, of course, the number and type of people who are in the sheltered boarding home; the kinds of services and provisions that are being given to them; whether the food is ample and adequate; whether the place is clear; whether there are adequate and clean linens. We're concerned about the size of the room; we're concerned about the kind of equipment that is in the room for the individual; we are concerned about the kinds of records that are kept by the home, specifically in terms of health and medicines and personal

funds; and then we're concerned about the kinds of services that are being rendered for the individuals and how they are rendered. These are the personal services. The helping with feeding; the helping of personal hygiene; the taking of medications and things of that nature.

Q. Could you describe the inspection program carried out by the Department of Community Affairs in respect to the homes falling under their jurisdiction?

A. The Department of Community Affairs, under the Hotel and Multiple Dwellings Act, is concerned primarily with building structure. They are not concerned with sanitation or the kinds of services that are rendered within that building.

Q. Can you describe the inspection programs of the various licensing authorities which operate out of the localities?

A. Yes. They are generally of two kinds: One, those concerned, again, with building structure and fire safety; and second, those concerned primarily with health matters, particularly sanitation.

* * * *

Q. Why is it that we do not have any idea or you don't have any idea of the number of people in these type of homes?

A. Because there is no single state or federal agency which is totally responsible for all boarding homes in the State of New Jersey. The information is not available, so there isn't that single source.

Q. I don't suppose you know the size of the staff that inspects the 276 licensed homes licensed by the Department of Health?

A. Yes. There are three inspectors, one supervisor, and then for the building aspects, we call upon our building inspectors, which is a separate team, and then for complaints on boarding homes, we call upon our complaint teams.

The SSI Checks

As noted, the federal Social Security Administration's Supplemental Security Income (SSI) program was to become a factor in the abuses in the boarding home industry because deficiencies in the system generated some of the most callous fiscal irregularities. To provide an overview of the SSI operation as it related to boarding home problems, the Commission called Gregory C. Machler, senior state relations specialist for New Jersey in the office of the assistant SSI regional commissioner. Mr. Machler was accompanied at the witness table by Barry J. Reiber, assistant regional attorney for the U.S. Department of Health, Education and Welfare, and Ken Makin of Social Security field operations in New York. Commission Counsel Schirmer asked Mr. Machler:

Q. How is the Supplemental Security Income Program, which we're going to be referring to during these proceedings as the SSI Program, how is this program administered?

A. All right. The Social Security Administration administers a program in this region, and for New Jersey the primary responsibility for administering the program is with the office of Assistant Regional Commissioner, SSI.

Now, in order to get the program running, it was necessary for the secretary of D.H.E.W. through social security and the office of SSI to enter into a contractual agreement with the State of New Jersey to administer both the mandatory and optional supplementation, which I referred to before.

Basically we're taking the termination of eligibility for the supplementary payments and here we're going to be paying an individual either mandatory or optional supplementation depending on the type of payment he's eligible for. We maintain records of the individuals receiving payment. We're required to provide the individuals receiving payment with some kind of notice and an opportunity for a hearing with respect to any at variance decision as to the right of this individual and the amount of supplementation. We're required to take actions to either raise, lower, suspend or terminate payments based on receipt of a notice from the recipient, from the state, or any political subdivision thereof concerning a change in living arrangements, income, resources, or any other factor which affects payment. We're also required to receive from the state, disburse and account to the state for state monies used to make supplemental payments and furnish the state with a monthly financial accounting statement on a case-by-case basis and a monthly accountability statement.

Additionally, we conduct studies and evaluations of the supplementation program to ensure effective and efficient administration of the supplementation program and share these reports with the state. We have established procedures to detect and investigate potential fraud, program abuse, and to make these reports available to the state also. We're also required to establish procedures to determine the incidents of payments to ineligible, for erroneous payments to eligible recipients through our office of quality assurance and, finally, impose deductions against supplementary payments if there are any prescribed by the state for eligible individuals for failing to report or comply with reporting requirements.

Mr. Machler estimated that between 78,000 and 81,000 New Jerseyans are SSI recipients. He also testified that the Federal government is spending \$8.2 million and the State \$1.7 million on SSI benefits per month. Despite these huge expenditures, the witness stated that the Federal government's contractual responsibility is limited to making the payments to eligible SSI beneficiaries and that it has no social responsibilities toward these recipients. That, he insisted, is the "state's responsibility."

*Q. Now, Mr. Machler, for the purpose of the next series of questions, I'm going to refer your attention to a chart prepared by the State Commission of Investigation marked C-4 for identification,**

A. All right. The basic federal payment, individuals living alone, is one-seventy-seven-eighty a month. For individuals who are residing in a licensed boarding home or incorporated home for the aged through the Department of -- New Jersey Department of Health, the State of New Jersey adds to that a supplement of \$130.20, making available to this individual in the licensed boarding home or incorporated home for the aged, a total payment of \$308 a month. Individuals in unlicensed boarding homes or living alone in the community are eligible for the federal payment one-seventy-seven-eighty plus the New Jersey supplement of \$22.20 for a total of \$200 a month.

*See Chart on P. 15-a.

SUPPLEMENTAL SECURITY INCOME
CHANGES IN LICENSED BOARDING HOME RATES

<u>EFFECTIVE DATE</u>	<u>FEDERAL BENEFIT</u>	<u>STATE SUPPLEMENT</u>	<u>STATE STANDARD</u>	<u>PERCENT INCREASE</u>
1-1-74	\$140.00	\$50.00	\$190.00	
7-1-74	146.00	44.00	190.00	0%
1-1-75	146.00	94.00	240.00	26%
7-1-75	157.70	82.30	240.00	0%
1-1-76	157.70	132.30	290.00	21%
7-1-76	167.80	130.20	298.00	3%
7-1-77	177.80	130.20	308.00	3%
7-1-78	189.40	125.60	315.00	2%

Q. So the federal benefit remains the same regardless of whether the person lives in a facility licensed by the Department of Health or whether the person resides in some other type of boarding home?

A. That is correct.

Q. Is the rate of a person's payment, a resident of a boarding home, because you will notice there is a distinction between whether a person resides in a Department of Health facility or a facility licensed by some other type of licensing authority, is the rate solely dependent on the recipient's address?

A. The rate is determined by the fact that an individual resides in a licensed boarding home. If the individual is a resident of an unlicensed boarding home, as you referred to them, he would be eligible for the lower payment level, \$200 a month.

Q. And this rate then is not dependent on whether the person requires additional supervision; simply the fact that he resides in the licensed boarding home; is that correct?

A. In a licensed boarding home, that's correct.

Although as many as 2,200-2,400 applications for SSI benefits are received in a month, half of which are declared eligible, Mr. Machler said checks could start going out within two weeks.

It was "conceivable" the witness agreed, that a delay in paying SSI benefits of more than six months could occur in the case of an applicant being released from a mental institution.

Illustrating the mixture of governmental agencies involved in the process, Mr. Machler testified that the decision on an applicant's disability must come from the Disability Determination Service of the state Department of Labor and Industry -- the third cabinet department to be involved in a boarding home activity.

Commission counsel next went into the issue of retro-active SSI checks, a cause of major abuses:

Q. Assuming that an individual is accepted and his check arrives, is this check for the first month or is it for the present month or is it a retroactive amount to the date of initial application?

A. The first check would represent payment back to the time the individual first filed an application. If, in your example, it took six months, it would be paid six months retroactively.

Q. Just to make one more point in the area of retroactive checks, the large check that is mailed to these individuals, it's made directly to the individual, or is it always given to a representative payee, or how is it -- how is it handled?

Maybe -- let me be a little more clear with that question. If we're talking about a mental patient, a person who has just been recently released from the mental institution, that check which might be in the amount of fifteen-hundred dollars, that would be directly mailed to the individual; is that correct?

A. It could be. If he was determined to be capable of handling his own funds when he was released from the state facility. If he were not determined to be capable of handling his own funds, then he would, as you indicated, require a representative payee.

Q. Is there any other further requirement that a portion of the SSI benefit, the SSI payment go for a particular use?

A. Individuals residing in a licensed boarding home are given a twenty-five-dollar personal needs allowance. That is the only money which they are entitled to out of that check. The individual has a responsibility, if he is his own payee, to pay the licensed boarding home rate. I believe that is currently \$278 a month, or \$283 a month.

Q. Could an operator of a boarding home, if an individual was receiving \$308 from SSI, could that operator take the entire amount for the rent?

A. I believe that would be possible, but the operator is probably in violation of some sort of state regulation where the individual is entitled to \$25 personal needs.

Q. But he would not be violating any federal regulation; is that correct?

A. There is no federal regulation on this matter.

Once an applicant is declared eligible for SSI benefits, he is subject to an annual "recertification" by the SSI. But the "mailing address" to be authenticated on the recertification form would not necessarily be helpful in the checking-up process since it might not denote his actual residence. Mr. Machler said an SSI recipient could "in effect, have a mailing address and a residence address." While an SSI field representative would "assist" in the completion of a recertification form, the representative's actual responsibility remained unclear. In fact, when Counsel asked Mr. Machler whether it was the responsibility of the SSI recipient rather than the SSI "to determine where, in fact, that person resides," Mr. Machler said, "I don't think I want to answer with a yes or no there." The SSI lawyer intervened:

MR. REIBER: Mr. Schirmer, I'll answer that question for you, as I think it's more of a legal question. Our field representatives have the obligation to assist SSI recipients in filling out this and all other applications. Obviously in -- if in helping them fill out these applications they come across a discrepancy or something which they believe is suspicious, they are under obligation to report it to their superiors. If the suspicion is borne out or the superiors believe there is good reason for the suspicion, it is then forwarded up to the regional office and eventually finds its way up into the program integrity unit for investigation, appropriate investigation.

THE CHAIRMAN: Are you suggesting, then, sir, that the field representative on the recertification form that's being filled out actually visits the recipient at his place of residence to determine whether or not there are any suspicious circumstances?

MR. REIBER: No, I'm not. I think you misunderstood me, sir.

THE CHAIRMAN: Where does the suspicion arise; from the completed form received in some office?

MR. REIBER: No. I would assume that what --

the thought that I'm trying to convey to you is that when a field representative goes out to a licensed boarding home and assists an SSI recipient in filling out these forms, if it appears to that field representative that there is something remiss or something suspicious, he will then go back and report that to his supervisor. We expect him to do that.

* * * *

THE CHAIRMAN: Then is your answer that most recertifications in the State of New Jersey, they are done by one of your representatives at the facility?

THE WITNESS: I would think so. I'm sure, you know, there might be an exception to that, but generally I would have to say yes.

* * * *

MR. SCHIRMER: Are the inherent problems, do they have to do with the fact that many of these people that you recertified are mental patients -- I'm sorry, I shouldn't say mental patients, but ex-mental patients and have some type of mental disability and it's difficult to communicate with these people?

MR. REIBER: Exactly.

The Kube Boarding Home

Julius Joseph Kube of Linden was the first boarding home operator to testify before the Commission. Through prolonged questioning, a sad story of callous mistreatment of boarders and the misappropriation of their personal resources was put into the public hearing record. But Counsel Schirmer first obtained an accounting of Mr. Kube's network of licensed and unlicensed facilities:

Q. Mr. Kube, what is your business or occupation?

A. I am the owner of the Joseph's Rest Home.

Q. How long have you operated the boarding home?

A. Nine years.

Q. What did you do before you operated the boarding home?

A. I ran the boarding home with my mother.

Q. What is your responsibility?

A. I buy my food for my guests, make sure they have clean linens, personal laundries done, I do the landscaping, quite a few other things that's involved.

Q. Do you help cook?

A. Yes.

Q. Is this facility licensed by the Department of Health?

A. Yes.

Q. When was the first time that you began to operate 230 East Linden Avenue as a licensed boarding home? Was it at the time you originally acquired the home or did you apply for a certificate or a license from the Department of Health?

A. In 1970 I applied for a license because my mother was going to retire in six months, so --

Q. Do you own any other properties?

A. Yes.

Q. Where are they located?

A. 718 Edgar Road, 715 Carlton Street, Elizabeth.

Q. Are there any other properties that you own?

A. Yes, 14 St. Thomas Avenue, Toms River, New Jersey.

Q. Is 718 Edgar Road, the facility at 718, is that operated as a boarding home?

A. 715 is operated as a private home because at the time I had 12 guests living there and I was to apply for a license and then --

Q. Mr. Kube, the question was: Is 718 Edgar Road operated as a boarding home?

A. No.

Q. Are there any residents in that facility?

A. Yes.

Q. Then it is operated as a boarding home?

A. I have two people living there.

Q. Do these people pay for their room and board?

A. Yes.

Q. Is the facility at 718 Edgar Road licensed by the Department of Health?

A. That's a private home. My sister lives there.

Q. Does anybody else live at that facility?

A. Actually there's nine, nine total.

Q. Four kids, two adults, two residents and who else?

A. That's it.

Q. That would be eight; isn't that correct?

A. Well, there's two guests and the four kids and my sister and her husband.

Q. At 715 Carlton Street, is that operated as a boarding home?

A. No, because I live there.

Q. You live there. Was it ever operated as a boarding home?

A. Yes.

Q. When was it operated as a boarding home?

A. January, February and March it -- I just closed it.

Q. So until March of 1978 it was operated as a boarding home?

A. Um-hum.

Q. How many guests were in that home?

A. 12.

Q. Was this facility licensed by the Department of Health?

A. No.

Kube's "Qualifications"

The Commission wanted to know Mr. Kube's qualifications as a boarding home operator. He indicated that his professional or technical background was minimal:

Q. What is the highest grade that you achieved in school, Mr. Kube?

A. Tenth grade.

Q. Tenth grade. Did you graduate from tenth grade?

A. No.

Q. Did you ever work at Alexian Brothers Hospital?

A. Yes.

Q. What did you do at Alexian Brothers Hospital?

A. Took up nursing.

Q. You took up nursing?

A. Yes.

Q. What did you do there?

A. Temperatures, bed changing, bathing and whatever had to be done. Then we went -- we had our classes in the afternoon for different things.

Q. Did you ever work at any other hospitals?

A. Well, when I was about 16 I worked -- I lied my age. I worked in, let's see, Elizabeth General Hospital, in the dining room and kitchen.

Q. So you were a cafeteria worker?

A. Yes.

Q. When you initially applied for the license to operate a boarding home, boarding home license by the Department of Health, were you ever asked by the Department of Health or some other agency which then licensed boarding homes, the type of qualifications that you had?

A. Yes.

Q. Who asked you that question?

A. It was on the application form that you had to fill out.

Mary and "JJ"

Two of Mr. Kube's employees were to figure in his later testimony as well as in the testimony of his boarders. They were Mary Kozak of Hillside and John (JJ) Travis, who lived at Mr. Kube's licensed facility at 230 East Linden Avenue. Mary worked fulltime taking care of the female boarders at \$3.25 an hour. Mr. Kube said he hired her after he "met

her on a bus going to bingo." JJ, a disabled SSI recipient who was described by Mr. Kube as an alcoholic, helped to supervise the place in the operator's absence, was its night watchman and was on duty five days a week. Mr. Kube said he "paid" JJ \$115 a month -- but it turned out that this included \$30 Mr. Kube gave him out of his monthly SSI check:

Q. Do you pay Mr. Travis for working at your facility?

A. I give him extra money, yes.

Q. How much extra money?

A. Well, plus what he gets from his SSI check and what I give him is a total of \$115 a month.

* * * *

Q. How much do you give him for personal monies or whatever?

A. His thirty plus -- well, everything equals \$115.

Q. Everything equals one-hundred-fifteen. Then if you give him \$30 from the SSI check, he receives \$85 a week, or is it \$85 a month?

A. \$85 a month.

Q. \$85 a month. And how often or how many days does Mr. Travis work?

A. Five.

Q. Five days a week?

A. Yes.

Q. And you pay him \$85 a month?

A. Um-hum.

Shopping Bag -- For "Records"

A serious impediment to the Commission's investigation was the sloppy condition of the business records of many boarding home operators. Mr. Kube was no exception. In fact, as it turned out, he kept his receipts, bills, checks and other important business papers in a large brown paper shopping bag -- which became an Exhibit in the public hearing proceedings.

Q. What type of records do you maintain?

A. Well, there are admission sheets, discharges, a patient passes away in the home I have to keep a death certificate on file, the manuals are included and --

Q. What agency requires you to keep these records?

A. The Department of Health, Institutions of Trenton.

Q. Are there any other agencies that require you to keep any other type of records?

A. No.

Q. Are you required to keep financial records, financial records both for yourself and for your residents by the fact that you're licensed as a boarding home?

A. No.

Q. Do you keep any type of financial records?

A. Yes, for my accountants.

Q. Were your records, your financial records subpoenaed by the State Commission of Investigation?

A. Yes.

Q. Did you produce those records pursuant to our subpoena?

A. Yes.

Q. Mr. Kube, I show you, now, which has been marked for identification C-9A (brown paper bag) and ask you whether that is part of the records which you produced?

A. Yes.

Q. What is in this bag?

A. My expenses, what I spent for groceries, meat, beddings, furniture, food, stuff.

Q. Do you keep a journal?

A. What I take in per month?

Q. No, what you expend.

A. No. I just take in whatever I have to spend and buy, just buy it.

Q. Describe to me what you do when you expend money, for instance, on food. Do you get a receipt?

A. Yes.

Q. What do you do with the receipt?

A. I throw it in the envelope.

Q. Did you ever report that receipt on another journal or another book?

A. Well, the accountant usually puts it on the book.

Q. How often does the accountant do this?

A. Well, actually, it's supposed to be done once a year. My taxes hasn't been done yet.

THE CHAIRMAN: Do I understand, then, you take the receipt, you put it in an envelope or in a bag and then the accountant goes through them?

THE WITNESS: Right. Totals --

THE CHAIRMAN: And r constructs at the end of the year?

THE WITNESS: Right.

Rents Based on SSI Payments

When it came to negotiating rents, the amount was automatic, according to Mr. Kube. It merely depended upon the size of the SSI check a resident would receive.

Q. Mr. Kube, is there some type of negotiation that you have with the resident about the amount of his rent or, in substance, is the conversation that if the person is receiving \$308 that his rent will be \$278 and that if the person is receiving \$328 from SSI that his rent will be \$298 and there's no exceptions to that rule?

A. That's right.

Q. How do your residents -- stepping back one second, you mentioned, now, that they get a check for \$308 and their rent is for \$278. How do your residents receive their money?

A. Well, the ones that are capable by handling their money, they get their money, their \$30 a month. The ones that get social security and SSI, they get -- they are supposed to get, actually, more than that because of the difference in value, money, they get for the income for themselves.

Q. How did your residents receive the money that they pay you rents? Is it mailed to them?

A. It's mailed to the post office box.

Q. All the checks are mailed to a post office box?

A. Yes.

Q. What happens then?

A. Well, I usually pick up the mail or Mary picks up my mail and when the checks come in I just get the book out and I mark down which checks came in and which checks I didn't receive, and --

Q. Then, as I understand it, you open the mail?

A. And then I give them their checks and they sign them.

Q. Then I understand you open the mail; is that correct?

A. Yes.

Q. After you record the amount of the checks, what do you do next?

A. I take it and have them sign the checks and then I take it and whatever I have to give the residents, either their allowance money. The ones that can't handle their money, I buy it for them and then the rest I just take it and I put it into my -- my checking account and my mortgages and my taxes and all that stuff included.

He "Handled" Boarders' Funds

It was Mr. Kube who decided who could or could not handle the monthly personal allowances. He testified that he handled these funds for most of his boarders -- but he kept no record of what happened to their money.

Q. Do each of your residents get a personal allowance? Do you give them \$30 when they -- when you receive their check?

A. Only if they are allowed to have their allowance on them. If they can't handle their allowance, then I have to hold it for them and use that money for their personal needs.

Q. How many people at your licensed facility do you give \$30 to?

A. Four.

Q. Four people?

A. Um-hum.

Q. Your facility is licensed for --

A. 16.

Q. -- 16? It also has John Travis in it; is that correct?

A. Yes.

Q. And he's receiving SSI benefits?

A. Yes.

Q. So that would be 17. Now, out of those 17 people, you give personal monies to four people; is that correct?

A. Right.

Q. Have you ever been notified by any state or federal agency that you were required to give your residents their personal monies?

A. No.

Q. And, then, I understand that you pay your residents \$30 if they can handle their money. If they can't handle their money, what do you do then?

A. I just take it and buy stuff for them. If they need panties, bras, socks, cigarettes, shaving cream, toothpaste, toothbrush, shaving cream, anything they need, I get. Sometimes I buy more than they need, but I take it out of my own pocket and give it to them.

Q. Now, we have been talking about your licensed facility. How is the personal money given at your other facility when it was an operation as a licensed boarding home -- I'm sorry, when it was in operation as a boarding home?

A. It was done the same way.

Q. How many people did you actually give the \$30 to?

A. One.

Q. So if we work from a total of 12 people, one person you gave the money, three had their own private funds, so that leaves you with eight people; is that correct?

A. Correct.

Q. So each month you had the \$30 from 13 people at your licensed facility and eight people at 718; is that correct?

A. Well, at the rest home.

Q. That's not my question, Mr. Kube. Is that correct, did you have use of that money each month?

A. Yes.

Q. How did you spend that money?

A. On their personal needs.

Q. Did you make any accounting for that money? Did you keep a record?

A. Well, usually when I buy it's all like one total sum and all them -- the envelopes, I just take and put the stuff in the envelopes.

Q. Do you ever apportion that money, residents' money that you're using to buy those items?

A. Yes. I explain to them what I spend and everything.

THE CHAIRMAN: Not explain to them. Do you ever apportion it out in any books or record --

THE WITNESS: No.

THE CHAIRMAN: To show what you have used of their money?

THE WITNESS: No.

Q. Do I understand it, then, Mr. Kube, that since you keep no type of an accounting of the personal monies expended for the people, it's simply on the basis of your memory that you will expend all the money for your residents?

A. Yes.

\$79,000 Gross, \$43,000 Net

From what records were available, Mr. Kube's accountant figured he had grossed more than \$79,000 in 1976 and had a net income from his boarders of 54 per cent of that.

Q. Mr. Kube, did you file your tax return for the years '73, '74, '75, '76 or '77?

A. No.

Q. Mr. Kube, I show you, now, what has been marked for identification C-9B, which is an audited accounting statement of the operation of the Julius--Joseph's Rest Home and I ask whether you recognize it?

COMMISSIONER LANE: What year?

MR. SCHIRMER: For the year 1976, dated May 25th, 1977.

Q. Could you tell me if that's for the operation of your boarding home?

A. Yes.

Q. Did you ask that that document be prepared?

A. Yes, I did.

Q. Could you tell me the gross income from your boarding home operation?

A. Seventy-nine-eight-three-two.

Q. Can you tell me the net profit from your boarding home operation?

A. Forty-three-seven-three-one.

Q. Do you have any idea what the per cent of profit is on those figures, \$79,000 gross, \$43,000 net? Is that approximately 54 per cent?

A. Well, according to the account, I think he's a little over because he had just took a rough figure and just done it up like that.

THE CHAIRMAN: He took those figures that you supplied to him; is that right?

THE WITNESS: According to the envelope and whatever he had in -- found in the envelopes to do with the books or anything, that's what he came up with.

The Transfer Traffic*

Using a chart prepared by the S.C.I. to illustrate the movement of boarders from Mr. Kube's licensed boarding home to his unlicensed satellites, Commission Counsel pressed the witness for details on why he collected the higher rent payment than was warranted after boarders were transferred from licensed to unlicensed facilities where the rent payments

*See Chart, P.29-b

JULIUS JOSEPH KUBE
BOARDING HOME OPERATIONS

JULIUS JOSEPH KUBE
PERSONAL RESIDENCES

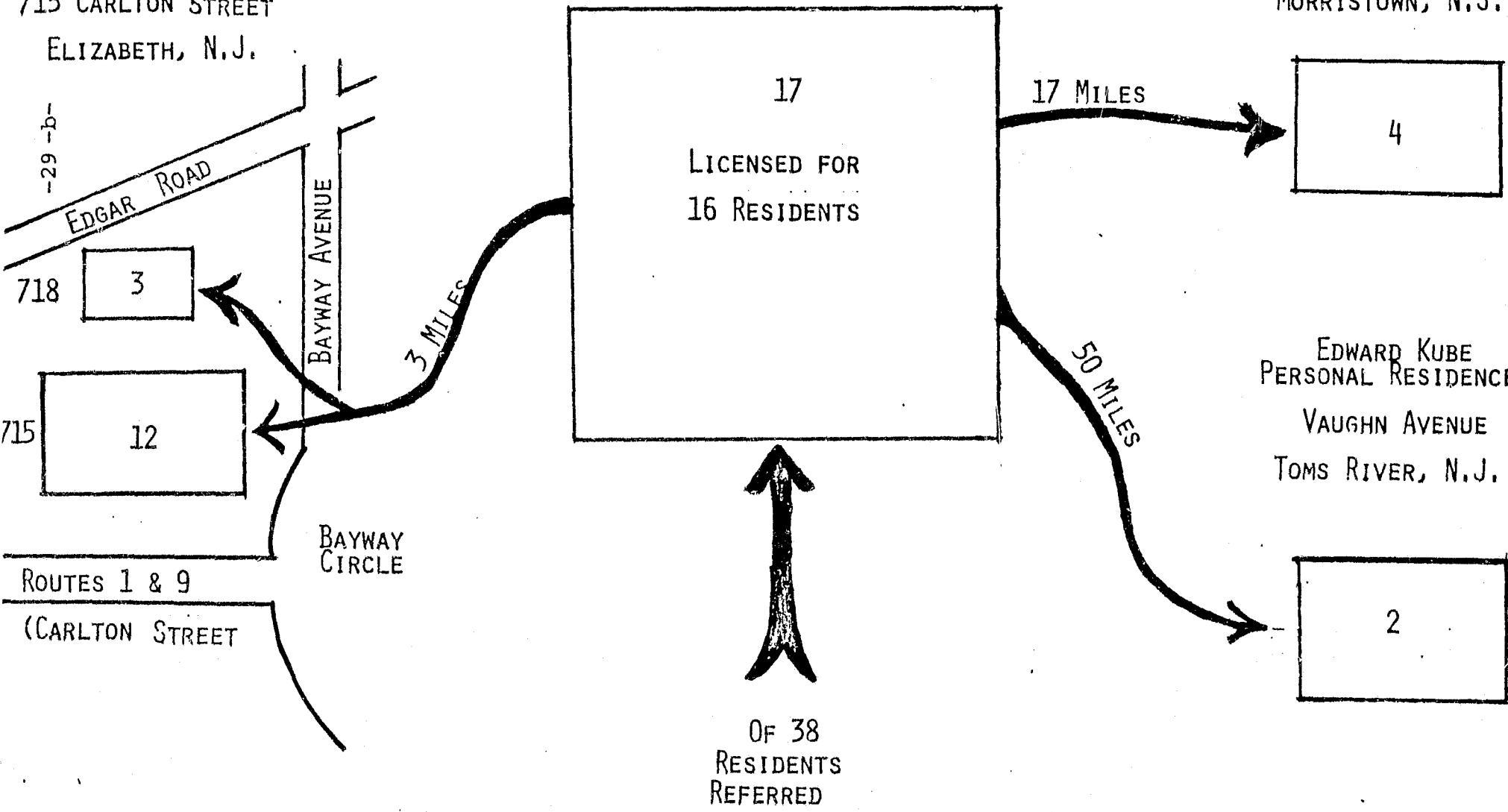
718 EDGAR ROAD

715 CARLTON STREET
ELIZABETH, N.J.

JOSEPH'S REST HOME
230 E. LINDEN AVENUE
LINDEN, N.J.

THOMAS NOLL
PERSONAL RESIDENCE
8 WALKER AVENUE
MORRISTOWN, N.J.

EDWARD KUBE
PERSONAL RESIDENCE
VAUGHN AVENUE
TOMS RIVER, N.J.



should have been lower.

Q. The people at 715 Carlton street, which is on Route 1 and 9, where do they come from?

A. From the licensed home.

Q. They come from your licensed facility?

A. Right.

Q. The people that were resident at 718 Edgar Avenue, where did they come from?

A. From the licensed rest home.

Q. From the licensed boarding home?

A. Right.

Q. These two facilities are not licensed; is that correct?

A. Correct.

Q. Now, why would these people be transferred or moved to the other facilities?

A. Because I was getting a lot of phone calls in from different agencies to take in more people and they asked me would I find any procedures -- do I know any other procedures to help them out by finding another place, and I explained it to them and that's what I did. I transferred from one place to the other.

Q. Referring to the 12 people at 715 Carlton Avenue and 718 Edgar Avenue, when they were residing in your licensed facility, what was their rate of income? What income were they receiving?

A. Some were getting three-o-eight and some were getting three-twenty-eight.

Q. Now, when you transferred these people to the two facilities at 718 Edgar Road and 715 Carlton, what income were they receiving?

A. They were getting the three-o-eight and then we had everything changed by the social security and the SSI to change it.

Q. How long were their income, their income from SSI, how long was that for, that \$308, how many months?

A. I would say probably five months, maybe four months.

Q. Did you notify anybody right away?

A. Well, I spoke to them, to the social security, to change their vouchers and everything.

Q. When did you speak to social security?

A. After I came back -- when I was called in here for the investigation.

THE CHAIRMAN: That's after you appeared before this Commission?

THE WITNESS: Right.

Q. Are you aware of the difference in rate for a licensed and unlicensed facility?

A. At the time I wasn't, but I found out about it. Now I do know.

* * * *

Q. When did you make these inquiries?

A. Right after I was assigned to come here and testified.

Q. Right after you testified in private session before the State Commission of Investigation?

A. Yes.

Q. Were you -- you weren't aware that there was a difference in the rate of \$308?

A. No.

Q. Then you wouldn't be aware that by not notifying the social security in the change of address of those residents you collected an additional -- an amount over fourteen-hundred dollars per month by not notifying social security of the change of address?

A. Yes.

Q. Are there any other residents who came from your licensed boarding home who went to other facilities?

A. Yes.

Q. Who were they and where did they go? More importantly, where did they go?

A. Well, usually if I had --

Q. Mr. Kube, my question is: Where did they go? Did you transfer people to Thomas Noll in Morristown, New Jersey?

A. Yes.

Q. Did you send people to your brother's house, his personal residence, in Toms River, New Jersey?

A. Yes.

Q. What was the amount of their check when they resided at your licensed facility?

A. Three-o-eight.

Q. Was there -- was the amount of their check ever changed when you transferred them to your brother's residence?

A. Yes, it was.

Q. When was it changed? Was it changed after you testified before the State Commission of Investigation?

A. Yes, it was changed after that.

Q. The places that you transferred people to; are they licensed boarding homes?

A. No.

Q. And that would mean that the operator is not entitled to the \$308.

A. Right.

When the Inspectors Came?

When field workers came to the licensed home to check on SSI recipients, Mr. Kube would make a telephone call and arrange to transport the particular client from the unlicensed facility back to the licensed facility. A cup of coffee or iced tea would help stall for time. The witness was asked to describe these visits:

Q. From time to time does a representative from social security come to your facilities to recertify or interview the residents?

A. Yes.

Q. If the representative from social security comes to your facility, he asks for an individual who is in your unlicensed boarding home, what did you do?

A. I usually call up and have my brother-in-law bring whoever's name is on the list and bring them to the rest home.

Q. So you make a telephone call. You say bring over this individual, we have somebody here from social security who has to interview them, and they bring them over; is that correct?

A. Correct.

Q. How much time does that take?

A. About ten, fifteen minutes.

Q. Referring to the chart, it's approximately three miles, correct?

A. Yes.

Q. So a short car trip and they are over. You bring them over in a car; is that correct?

A. Correct.

Q. What did you do with the social security representative in the meantime?

A. Well, we're interviewing someone else that he has on the list and have iced tea or coffee.

Q. You give him a cup of coffee?

A. Yeah, if he wants something to drink. Usually they don't, you know.

Q. Do you tell the representative from social security that they are living at another residence, yes or no?

A. No.

Q. Do you not tell the representative from social security because you knew, in fact, that they would not receive as much money if you told that representative from social security what their real address was?

A. Correct.

THE CHAIRMAN: Your answer is correct?

THE WITNESS: Yes.

COMMISSIONER LANE: Why on those occasions didn't you take the social security representative over to Edgar Avenue and to Carlton Avenue and interview these people they were interested in?

THE WITNESS: I just didn't do it that way. That's all.

COMMISSIONER LANE: I beg your pardon?

THE WITNESS: I didn't do it that way.

COMMISSIONER LANE: I know, but why not?

THE WITNESS: I don't know why.

COMMISSIONER LANE: You have nothing you care to -- you can't recall any reason at all?

THE WITNESS: No.

THE CHAIRMAN: Mr. Kube, the way it appears to me, the residents will come into your 230 East Linden Avenue address, and that's a licensed boarding facility. The rate will be set as a result of them coming into a licensed boarding facility?

THE WITNESS: Right.

THE CHAIRMAN: Now, to make room for these calls that you said are received, three of them went to 718, 12 went to 715 Edgar Avenue, some four went to Morristown and I guess there were two in Toms River. All of these had gone through the licensed facility?

THE WITNESS: Yes.

THE CHAIRMAN: When the field representative would come to see these people, you would bring them back to the licensed facility so that they would not necessarily detect that they were at a different address; is that correct?

THE WITNESS: Yes, in a way, because I placed the 14 -- I mean --

THE CHAIRMAN: The answer is, to my question, that that's correct, so that they would not necessarily detect that they were there?

THE WITNESS: Right.

THE CHAIRMAN: And in order to make up for some time in transportation you would serve them coffee?

THE WITNESS: Whatever they would want.

THE CHAIRMAN: They would advise you of the names of the people they would want to interview before they came?

THE WITNESS: No.

THE CHAIRMAN: They would just come to the door?

THE WITNESS: Ring the door and said they have a certain person.

THE CHAIRMAN: That's why it was necessary to entertain them for a while, until you could --
THE WITNESS: Only the ones from 715 and 718, not from Morristown because Morristown was on his own.

Hiding the Facts

Mr. Kube admitted he doctored his licensed boarding home records so the State Health Department would not discover that he was running a network of unlicensed facilities.

EXAMINATION BY MR. SCHIRMER:

Q. Mr. Kube, I next show you what has been marked for identification as C-13, which purports to be your -- which, in fact, is your register for your licensed care facility issued by the State of New Jersey, and I ask whether you recognize it. The item consists of four attached pages and five unattached pages.

A. Yes, that's correct. They're mine.

Q. Is this the register that you are required to maintain by the Department of Health?

A. Yes.

Q. Does the health inspector who comes to your facility periodically look at this document to determine who is resident at your licensed boarding home?

A. Yes.

Q. Okay. Referring to the first page of the same document, C-13 for identification, do you have a resident by the name of Paul Basso?

A. Yes.

Q. And did you also put a notation under remarks?

A. Yes.

Q. And what is that notation?

A. Left to Newark.

Q. What date is that?

A. 8/24/77.

Q. Is this false information, Mr. Kube?

A. Yes.

Q. Where did he, in fact, go?

A. Well, in fact, Paul was living at 7 -- 715, and when I closed the house I moved him to Cherry Hill, 500 -- 500 Cherry Street and that's called Cherry Hill Rest Home, and when I did move him back -- when I moved him to her house she only kept him like three days and said that I had to take him back, so now Paul is now residing at 718 -- 715, I'm sorry.

Q. Weren't you, in fact, misrepresenting to Health in order to hide the fact that you were running a satellite operation?

A. Yes.

Boarder "Paid" for Repairs

Mr. Kube admitted using money belonging to a boarder to pay for repairs to his facility.

Q. Did you ever have, did you ever receive any money or funds from your residents over and above their rental charge?

A. Yes.

Q. Who was that?

A. Dorothy Hill.

Q. How much did you receive from Dorothy Hill, approximately?

A. \$2,000, I think.

Q. Two-thousand. Could it have been twenty-five-hundred dollars?

A. Yeah, more like twenty-five.

Q. How did you receive this money?

A. She got her social security check.

Q. And she signed it and you cashed it?

A. Yes.

Q. And you got the twenty-five-hundred dollars. What did you do with that money?

A. I used it for repairs and stuff on the rest home.

Q. You used it for repairs. Where did Dorothy Hill come from?

A. Dorothy Hill was living with me for 18 years.

Q. How much money did you expend on the rest home?

A. Whatever the state required me to do, that's what we had to do and they only gave me 30 days to get everything done.

Q. Did you ever pay Dorothy Hill back?

A. No.

Q. Do you owe this money to Dorothy Hill?

A. Yes.

Q. Didn't you, in fact, previously testify that Dorothy Hill quote - unquote gave me the money?

A. Yes.

Boarder Macris' Bank Account*

Charles Macris was one of Mr. Kube's boarders but you would not have known that from Mr. Kube's records -- because he wasn't listed. Mr. Macris had a savings account and a checking account but they were soon depleted. Mr. Kube admitted he signed Mr. Macris' name on some of the checks, an activity that was discussed at length later in the hearing by State Police Trooper E.J. Greenwood.

Q. Did you have a resident by the name of Charles Macris?

A. Yes.

* * * *

Q. Mr. Kube, will you accept my representation that Mr. Macris's signature does not appear in any of those books and haven't you previously testified to the State Commission of Investigation Mr. Macris's signature is not in those books.

A. No, it's not, really.

*See chart on P. 37-a, See also testimony of Charles Macris on P. 54.

FUNDS OBTAINED BY J. KUBE
FROM CHARLES MACRIS

FROM CHECKING ACCOUNT

<u>POSTING DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>
4-06-77	J. KUBE	\$ 500.00
6-09-77	J. KUBE	275.00
7-06-77	J. KUBE	200.00
7-19-77	J. KUBE	200.00
7-26-77	J. KUBE	200.00
8-09-77	J. KUBE	80.00
9-13-77	J. KUBE	100.00
9-20-77	J. KUBE	50.00
11-02-77	N. Y. LIFE	373.80
11-16-77	J. KUBE	200.00
	SUBTOTAL	<u>\$2,178.80</u>

FROM SAVINGS ACCOUNT

4-05-77	C. MACRIS	\$1,311.85
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FROM SSI CHECKS

621.40

TOTAL

\$4,112.05

TOTAL RENT DUE - \$2,800.00

Q. He is not in the books?

A. No.

Q. Is that another misrepresentation on your part?

A. Yes.

Q. When did Mr. Macris move in your boarding home facility?

A. I couldn't tell you offhand.

Q. Did he stay -- did he go to your licensed boarding home?

A. He was there and then he was transferred to the 715 address.

Q. And you don't know how long he stayed at the 715 address?

A. No, not just at the moment.

Q. What was Mr. Macris's rent?

A. I'm not so sure I remember, now.

Q. Wasn't your previous testimony first that he was paying you \$308 a month rent and later you changed that testimony to \$350 a month?

A. He was paying -- he was supposed to pay three-fifty a month because he had money to cover expenses of his own.

* * * *

Q. Did Mr. Macris ever owe you any money for any reason other than rent?

A. Just the rent that he owed.

Q. Just the rent. Then total rent due from Mr. Macris would be for eight months' time. Let's assume \$350 for a total of twenty-eight-hundred dollars; is that correct?

A. Yes.

Q. Were you paid rent by Mr. Macris when he first came to your boarding home facility?

A. Yes.

Q. And how were you paid?

A. By check.

Q. And what was the amount of that check?

A. Again, I can't tell you exactly. I don't know the amount offhand.

Q. Approximately, Mr. Kube? I show you which has been marked for identification C-14, which purports to be a copy of a treasurer's check drawn on the Union County Savings Bank paid to the order of Charles Macris in the amount of \$1,311.85.

COMMISSIONER LANE: What's the date?

Q. Dated April 5th, 1977 and endorsed by Charles Macris and Joseph Kube. Do you recognize that check?

A. Yes.

Q. And what was that check in payment for?

A. Well, it was supposed to cover up the checks for his room and board because his SSI did not go through and he was only getting social security at the time and the social security was deposited to the bank automatically. So Mr. Macris, to pay me his room and board, he would have to write me a check every month.

Q. Now, again referring to the check which has been marked C-14 for identification, I refer your attention to the signature on that check. Did you, in fact, sign Mr. Macris's signature?

A. Yes.

Q. In addition to this check for thirteen-hundred dollars, \$1,311.85, did you receive any other checks from Mr. Macris?

A. Yes.

Q. Or checks drawn on his account?

A. Yes.

* * * *

Q. In addition to the monies that you received from Mr. Macris's savings account, the check for \$1,311.85 and the checks which you drew on Mr. Macris's checking account, were there any other monies that Mr. Macris received at your boarding home? Did Mr. Macris receive an SSI check?

A. I think he did.

THE CHAIRMAN: You think he did?

THE WITNESS: Yes.

Q. Mr. Kube, I show you a copy of a check C-39 for identification, which purports to be a copy of a United States Treasury check, and we only have half of that check, made out to Charles Macris at 230 East Linden Avenue, Linden, New

Jersey, in the amount of \$71.40. Is that the amount that Mr. Macris received each month?

A. Yes.

Q. And each month he received \$71.40 in SSI?

A. Yes.

Q. And you deposited those monies in your account?

A. Yes.

* * * *

EXAMINATION BY MR. SCHIRMER:

Q. Mr. Kube, I refer your attention to a chart prepared by the State Commission of Investigation marked for identification C-51, which is a reconstruction of all the funds which were received from Charles Macris -- I'm sorry, C-57 for identification, a series of one, two, three, four, five, six, seven, eight, nine, ten checks, several of which you have admitted writing Mr. Macris's signature on, in the amount of \$2,178.80; monies that you obtained from his savings account, \$1,311.85; finally the total SSI checks which Mr. Macris received while he was at your facility of \$621.40 for a grand total of \$4,112.05.

A. Okay.

Q. Mr. Kube, what was the total rent due based on your testimony that he paid you \$350 rent per month? He was there for eight months. What was the total amount of rent due?

A. You mean those months there?

Q. Twenty-eight-hundred dollars, which you just testified to; is that right?

A. Right.

Q. So you obtained \$4,112.05 in addition to the rent that Mr. Macris owed you?

THE CHAIRMAN: Are those figures correct, Mr. Kube?

THE WITNESS: Yes.

Anna Klin's Savings Account*

Mrs. Anna Klin, who was blind, came to Mr. Kube's boarding home with more than \$6,000 in the bank. Within two weeks, that account was down to less than \$100.

Q. Mr. Kube, did you ever have a resident by the name of Anna Klin?

A. Yes.

Q. When did she come to your facility?

A. I couldn't tell you the exact date.

Q. Would you remember if I told you it was February, 1977?

A. Yes.

Q. Is Anna Klin blind?

A. Yes.

Q. While Anna Klin was at your licensed facility or licensed boarding home was she receiving an SSI check?

A. No.

Q. Or social security check each month?

A. Just social security.

Q. How much was that check for?

A. I -- roughly, I would say, probably two-thirty-nine a month. I'm not so sure. I'd say probably.

Q. Did Anna have a savings account when she came to your facility?

A. Yes.

Q. How did you become aware of that fact?

A. Well, when she was admitted, they said that she had to use that money for her funds.

* * * *

Q. I show you what has been marked for identification C-41, which is a signature card for the account of Anna Klin, dated 2/22/77. Does that evidence the transfer of funds from one account and the opening of another account?

A. Yes.

*See Chart on P. 41-a. Also see testimony of Anna Klin, P. 46.

SAVINGS BANK ACCOUNT OF
ANNA KLIN OR JOSEPH KUBE

<u>DATE</u>	<u>DEPOSITS</u>	<u>WITHDRAWALS</u>	<u>SIGNATOR</u>	<u>BALANCE</u>
2/23/77	\$6,386.13	\$1,000.00	ANNA KLIN	\$5,386.13 ACCOUNT OPENED
2/25/77		500.00	JOSEPH KUBE	4,886.13
2/23/77		500.00	JOSEPH KUBE	4,386.13
3/3/77		4,000.00	JOSEPH KUBE	386.13
3/10/77		300.00	JOSEPH KUBE	86.13
3/31/77	INT. 8.73			94.86
4/29/77	INT. .31			95.17
5/31/77	INT. .32			95.49
6/22/77		80.00	JOSEPH KUBE	15.49
6/30/77	INT. .23			15.72
8/31/77				15.72

-41-a-

Q. And is this signature your signature?

A. Yes.

Q. Now, why did Anna put you on her account?

A. She didn't want her husband to have anything to do with her.

Q. And she trusted you?

A. Yes.

Q. The second document which I show you marked C-42 for identification is a deposit ticket dated 2/21/77 which evidenced a transfer of Anna Klin's money from one account to another in the amount of \$6,386.13?

A. Yes.

Q. Is this the money that was transferred?

A. Yes.

Q. When you originally went to the bank with Anna Klin, did she withdraw any of that money from the account to give to you?

A. Yes. She took out a thousand dollars.

Q. And she gave you a thousand dollars?

A. Right.

Q. What did you do with that thousand dollars?

A. She had to get medication because she didn't have no coverage for Medicaid/Medicare. She had to get insulin, needles, some clothing.

Q. Is your testimony, then, she spent, you spent the entire thousand dollars on medication?

A. Not entirely. That was including her room and board also.

Q. How much was her room and board?

A. I believe it was around four-something a month.

* * * *

Q. Did there come a point in time when you withdrew additional money from that bank?

A. Yes.

Q. How much was that?

A. I don't have the figures in front of me.

Q. I show you what has been marked for identification a joint exhibit, C-43, which is a listing of six withdrawal forms drawn on the Union County Trust Company on the account of Anna Klin, the first dated 2/23/1977 in the amount of \$1,000; the second in the amount of \$500, signed by Joseph Kube in the amount -- I'm sorry, and the date 2/27/77; the third dated 2/28/1977 in the amount of \$500, signed by Joseph Kube; the fourth dated 3/8/77 in the amount of \$4,000, signed by Joseph Kube; the fifth dated 3/10/1977 in the amount of \$300, signed by Joseph Kube; and finally on 6/22 the last drawn for \$80, signed by Joseph Kube.

Is this the amount of money that you withdrew from that account?

A. Yes.

Q. Did you receive the \$6,000 yourself?

A. Yes.

THE CHAIRMAN: In response to Commissioner Lane's question, these withdrawals were all made after you made it a joint account between yourself and Ann Klin?

THE WITNESS: That's correct.

Q. I show you what has been marked C-44 for identification, which is a copy of the transcript of Anna Klin or Joseph Kube's account at the Union County Trust Company, and as I walk to the chart I would ask you to refer to that document.

The chart which has been prepared by the State Commission of Investigation is a copy of the transaction of that account between 2/23/77 and 8/31/77. You'll notice, Mr. Kube, tell me if you disagree, on 2/23/77 you withdrew \$1,000; 2/25, two days later, \$500; 2/28/77, \$500; 3/8/77, \$4,000. Finally on 3/10/77, \$300. So in a series of two weeks, in the course of two weeks, a little over two weeks, you have withdrawn \$6,000 from that account; is that correct?

A. Yes.

Q. Mr. Kube, referring to the withdrawal on 2/28/77 in the amount of \$500, what did you do with that money?

A. I used it for certain things.

Q. What were those certain things?

A. I don't recall offhand.

THE CHAIRMAN: Personal things for yourself?

THE WITNESS: No. Things to do for the house.

COMMISSIONER LANE: Give an example.

THE WITNESS: I just couldn't give you an answer.

THE CHAIRMAN: You don't remember now?

THE WITNESS: Well, I mean, there's quite a few things that went on.

THE CHAIRMAN: What kind of things I think is what the question suggests.

THE WITNESS: Well, there was material that I bought, drapes and stuff for the house and some other medications that I was paying for because I was paying for a lot -- well, I would say three or four different people, when they ran out of medication, I had to renew it right away, pay for it cash and then, you know, they didn't have it, so I did it and then I had to wait for my money to get it back and stuff.

THE CHAIRMAN: In other words, you used this as a revolving account to run the house?

THE WITNESS: In a way, at that time.

Q. Mr. Kube, did you ever take a trip to Hawaii?

A. Yes.

Q. I show you an exhibit which has been marked C-46 for identification, which purports to be a cash receipt made out to the Doorway To The World travel agency, dated 3/1/77, the day after you withdrew \$500 from Anna Klin's account, showing a transaction between yourself and the Doorway Travel Agency and the receipt is for \$469. Is that what you did with the \$500.

A. No. The money, I took it and I borrowed fifteen-hundred dollars for someone else to do that Hawaii trip and it was a package deal.

Q. Have there every been any instances where residents of your licensed or unlicensed boarding home have been physically abused?

A. No.

Q. Then your testimony would be that you have never physically abused anybody in your boarding home operations?

A. No.

Q. Did you ever apply physical force to Anna Klin?

A. No.*

Q. Did you ever talk to Anna Klin prior to her testifying in private before the State Commission of Investigation concerning what her testimony should be?

A. No.

Q. Did you ever tell Anna Klin that if she told the truth you might go to jail?

A. No.

Signed Dead Man's Check

When Counsel Schirmer first asked Mr. Kube if he ever had a boarder by the name of Edward Rudensey, the witness said it "doesn't ring a bell." It turned out, however, that Mr. Rudensey came to Mr. Kube's boarding home on January 1, 1977, and died there 10 months later. But Mr. Kube seemed to find it difficult to recall the circumstances in which he obtained, signed and cashed Mr. Rudensey's check after the boarder died.

Q. When did Mr. Rudensey enter your facility?

A. 1/1/77.

THE WITNESS: That's January 1st, 1977 and discharged 11/1/77.

Q. So the final rental payment you received on November 11 -- November 1st, 1977 was for \$280; is that correct?

A. Right.

Q. Did Mr. Rudensey die at your facility?

A. Yes.

Q. When did he die?

A. I don't know.

Q. Just to --

A. I couldn't tell you.

Q. I have an item here marked C-47 for the purpose of identification, which is a certified copy of a death certificate of Mr. Rudensey. Could you tell me the date of death of Mr. Rudensey?

A. 10/20/77.

*See testimony of Anna Klin, P.50.

Q. And you received rent in November?

A. No, not on that. That was added in there before the month was over, before the new month started. I usually do them a month ahead of time.

* * * *

Q. Mr. Kube, I show you what has been marked for identification C-48, which is a check made out to Edward Rudensey in the amount of \$114.50 endorsed by Edward Rudensey, co-endorsed by Joseph Kube, and I'd ask you whether you can give me the date of that check?

A. 11/1/77.

THE CHAIRMAN: Are you suggesting Mr. Rudensey signed it on 11/1/77?

THE WITNESS: No. That was my signature. I cashed the check and then I had to refund it back.

THE CHAIRMAN: You placed Mr. Rudensey's name on that check?

THE WITNESS: Right.

Blind Boarder

The next witness, Mrs. Anna Klin, 62, blind, testified that Mr. Kube -- she called him Joey -- first learned about her savings account when she offered to buy a refrigerator for the boarding home. But he refused the offer. Commission Counsel Robert M. Tosti went on from there:

Q. So after that conversation Mr. Kube learned that you did have some money in the bank?

A. Well, I imagine from what I told him about the refrigerator that I did have money in the bank, but I never told him how much or where or when.

Q. Did Mr. Kube offer to take you there?

A. Yes. Joey drove me down to my eye doctor at 540 St. George Avenue in Rahway, and after the doctors we came -- we were coming home and so he says "Ann," he says, "I got to ask you something." He says, "Where is the bank?" I told him in Clark Township. So he asked me if I would go to the bank and take a thousand dollars out because he needed it for my board.

Q. Okay. Did you go with him to the bank at that time?

A. Yes, I did.

Q. And what happened at the bank?

A. Well, there was a man at the desk. I don't know his name right now. So he asked me what I wanted. I told him to look up my account of John and Anna Klin and I told him I needed some money, and he asked me how much. I told him. So I asked Joey how much should I take out, and Joey says, "How much you got?" I wouldn't tell him. I asked the guy to give me a thousand dollars.

Q. How much money did you have in that account?

A. I had six-thousand-seven-hundred-and-some-odd dollars.

Q. Whose names were on the account?

A. My husband's and mine. John Klin and Anna Klin.

Q. So did you decide to put that money in your own name?

A. Yes, I did, because Joey, he says, "Ann, why don't you take it and put it in your own name?"

Q. But you did this on Mr. Kube's suggestion?

A. Yes, I did, on Joey's say-so.

Q. At the time you were filling out the forms, did Mr. Kube make a further suggestion?

A. Well, Joey, he says -- well, when the man finished filling out the forms, I signed the papers and then Joey, he says, says, "How about me putting my name underneath yours?" And so I asked him what for. So he says, "Well, just in case."

Q. So by this what did you understand that you were doing at that time?

A. I thought that I would take the thousand dollars out and give it to Joey for my back rent, the way he told me it would be, and so this man took -- and he gave me the thousand dollars, made out a new book and he handed me the book and I put it all in my pocket.

THE CHAIRMAN: Ann, do you know what it was he was signing when you signed your name?

THE WITNESS: No, I didn't because he said that the guy at the desk said that I had to

make out a new paper because I was eliminating my husband from the bank account.

THE CHAIRMAN: Did you realize that you were opening a joint savings account with Mr. Kube at that time?

THE WITNESS: No, I did not.

* * * *

Q. Did you know that the account you opened that day Mr. Kube could take the money out without asking you?

A. No, I did not. The guy at the desk never explained that to me and neither did Joe Kube.

Q. Did you give Mr. Kube the thousand dollars right there at the bank?

A. No, I didn't. I waited until we got home. I gave it to him at the kitchen table with the book.

Q. At that time did he say that the money was for your rent?

A. Yes, he did.

Q. Did he tell you how much your rent was and how many months that covered?

A. No, he did not.

Q. Who held on to the bankbook after --

A. I handed that book over to Joey because Joey said he would put it in his safe.

Q. Did you later learn that additional money was taken out of your account without your knowledge?

A. Well, later on, about a month or so later, I came downstairs for breakfast, and after breakfast Joey says, "Sit down." So when I sat down, Joey started telling me that he took the money out of the bank and I found it on the table. Was I mad. I could have killed him. He said he took all the money out of the bank. I said, "What for?" So he told me that there were two men that he had, I don't know, one of these men had a mortgage on the house or what; that he had took a loan out with these two fellows and these fellows were hounding him for the money so he figured he would go take my money out to pay these two guys off.

Q. Did you ever say that he could take that money from you?

A. No, sir, I never knew that he even touched my bankbook.

Q. After you found out that Mr. Kube took your money, did you learn that he took a trip to Hawaii?

A. Yes, about a week later, not even a week, he went to Hawaii. I says, "Sure, with my money."

Q. Did he ever say he would pay you back?

A. No, sir.

Q. Did you ever get a receipt for that money?

A. No, sir.

* * * *

Q. Did Mr. Kube ever talk to you about your \$6,000?

A. No, he did not. I thought I kissed that money good-bye.

Q. After you came down to the State Commission of Investigation --

A. Yes.

Q. -- in April, did Mr. Kube sit down with you and talk to you about that money?

A. Well, when I came back from Trenton here I was down in the TV room and then he called me upstairs. I says, "What do you want, Joey?" He took me in the parlor and sat me down and he says, "Where were you?" And this was about a day or so later. I says, "In Trenton. Why?" He says, "Well, you know, I went to Trenton, too," I says, "What did they do with you?" He says, well, they confiscated all his books. I says, "Good. Maybe they'll find out what you done with the money." He says, "What money?" I says, "My money." I says, "What money? My money."

But then he asked me what did I say. I told him I can't say because you wouldn't allow me to tell anybody.

Q. Did he say he was going to pay you back?

A. Yes, later on he says that I had about \$2,000 coming back to me. I says, "That's all? Out of the six-thousand?"

* * * *

Q. Ann, did he tell -- did Mr. Kube tell you how much he had taken of that \$6,000 for your room and board?

A. I only gave him the thousand. That's all I know about.

Q. And otherwise the rent was being paid by social security and SSI?

A. Yes, yes.

Q. Did you receive any benefits other than social security and SSI?

A. No, nothing. Nothing.

Q. Did you receive Medicare or Medicaid?

A. Well, I got both cards. I got Medicaid and Medicare.

Q. -- since before you went to Mr. Kube's?

A. Yes, but Joey had to send for new ones because my sister didn't give him the old ones.

Q. Did Mr. Kube buy medicines for you?

A. Well, sure, because they came out of my Medicaid.

Q. But he picked up the medicines with your--

A. Well --

Q. -- card?

A. He called the druggist and the druggist would bring them to the door.

Q. So as far as you know, these purchases would not cost Mr. Kube anything?

A. No. As far as I know, no.

Charges He Hit Her

Contrary to Mr. Kube's testimony, Mrs. Klin said he struck her on several occasions -- but she hit back.

Q. Ann, did Mr. Kube ever hit you?

A. Yes, he did, twice.

Q. Could you explain what happened?

A. Well, the first time I wasn't feeling well so I figured I'd stay upstairs and I told Jay that I didn't want no breakfast, so I came down, well, It was near dinner time.

A. (Continuing) So when I came down I said, "Hello, Joey." And Joey got up from the -- I was going downstairs. Joey was at the other end of the table, so he came and grabbed me by the neck and he squeezed me. That's when I walloped him one and I let go. I went downstairs crying. I couldn't hardly breathe or anything and I didn't eat for three days.

Q. You don't know exactly when that happened?

A. No. It happened maybe two or three months later, after he went to Hawaii.

Q. But did Mr. Kube ever hit you before he took your money out of your account?

A. No, he did not.

Q. Was there a second time when Kube hit you?

A. Yes, there was.

Q. Could you describe what happened?

A. Well, I come downstairs from up -- I was up in bed and I had a nice cold so I says, "I'll stay in bed with a cold," and came down and I says, "Hi, Joe." And Joe didn't answer me, and all of a sudden I felt a hand on my back and I was going to go downstairs to sit in the TV room, and he grabbed me by the neck and he shoved me down the stairs and my cane got stuck in the railing, and with that I couldn't even take my hand out of the railing, so I went down the steps on my knees. So when I got downstairs, I says, "Now, come on down." I says, "Come on." When Joey came down, he was going to grab me, I socked him one so hard. So then I picked up a chair. I was going to nail him good with the chair, so he says, "Put that chair down." I says, "No. Who's going to make me?" He said, "I will." I says, "Try it. Try it. I might be blind," I says, "but I could hit." So after it was over, he had scratches and things all over him, on his chest and all, and then, again, I didn't eat for almost three or four days. I would give him the satisfaction in going in there to eat. I says, "I'll starve to death."

Q. Did Mr. Kube hit other residents of the home?

A. Yes, he did take them, shove them down the stairs because -- in a way I don't blame him. They climb the steps in the kitchen and Joey told them get downstairs. A half hour later they be up again and they annoy the heck out of him and the housekeeper.

Q. How could you tell other people were being hit?

A. Because the way he would holler and scream. He would grab them by the neck and shove them down the steps -- I'm sorry, and one day there was a girl, when he hit her she had scratches on her arm. That Mary had to put Band-Aids and she was crying.

Mr. Kube arranged for Mrs. Klin to receive Supplemental Security Income checks but he didn't want Mrs. Klin to say anything when the SSI representative was present.

Q. When you first came to Mr. Kube's you were not receiving SSI?

A. No, I wasn't.

Q. Did Mr. Kane arrange for you to receive SSI?

A. Yes, he did. As far as I can recollect, he did.

* * * *

Q. Ann, at that time when the social security representative was at Mr. Kube's house, did Mr. Kube take you aside and tell you, instruct you, not to say something to them?

A. Yes. He told me not to say anything because she understands and Joey told me this in Polish.

Q. He spoke to you in Polish?

A. Yes. He said, well, in American I shouldn't say nothing because she's there and then she'll understand.

Q. You shouldn't say anything that you had money in the bank?

A. Yes.

Although by his own admission he had taken full advantage of Mrs. Klin's bank account, Mr. Kube gave very little in return. Mrs. Klin complained she never even got spending money. Counsel Tosti:

Q. So, then, out of the personal money from your SSI you're not allowed to purchase your own cigarettes?

A. No, we weren't allowed and I didn't see no SSI -- I didn't see no checks, none.

Q. You were never given the personal money from the SSI?

A. No, sir. No, sir, not a penny.

Q. Joe would not let you handle any money?

A. No, siree.

Q. So your cigarettes were rationed?

A. Yes, our cigarettes were rationed. When I first got to Joey, when he took me out of the courthouse, I smoke my pack, say, in a day and a half. I didn't know he would ration me. I was there two good months before he rationed me.

Q. After your money in the bank account was gone, then you went on rationing your cigarettes?

A. Yes, yes.

Q. Did Mr. Kube ever buy you any clothing?

A. No, he never bought me nothing. Only last Christmas when I was there, he gave me two pair of panties and I still have them in the container they came in, and a bottle of perfume and a small container of powder. That's the only gifts I ever got.

Q. Did you ever loan money to Mr. Kube?

A. No, sir, I never loaned anybody no money.

Q. You have testified that Mr. Kube pushed you down the stairs at one time.

A. Yes, yes.

Q. The day before you came to the State Commission of Investigation --

A. Yes.

Q. -- to give testimony, did Mr. Kube say anything to you about that?

A. Yes.

Q. -- the formal testimony in private session, --
A. Yes.

Q. -- did Mr. Kube say anything to you about falling down the stairs; that you fell, you weren't pushed?

A. Yes. That's when he says, well, how come that I told, that Joey pushed me. I says, "Yes, you did. I felt your hands on my back pushing me." I says, "What are you trying to pull?" He said I fell. I said, "No, I didn't." I says, "How come I was on my knees and the cane was stuck in the railing?"

Q. So he tried to make you think that you fell down the stairs?

A. Yeah.

Q. Rather than being pushed?

A. Yeah. He tried to make me think that, but I know better. I felt his hands on my back pushing me.

Q. To this day, Anna, did you get any of your \$6,000 back?

A. No, sir. I never received a penny.

Gave Kube Everything

Charles Macris of Elizabeth testified that he lost all of his financial resources while he was a boarder at Mr. Kube's facilities. Even on the day he arrived, he said, he turned over whatever he had in his pockets. Commission Counsel Neil J. Casey:

Q. Now, Mr. Macris, going back to April of 1977 when you first went to Mr. Kube's home in Linden, did you have any money with you when you went there?

A. Yes, \$30 cash, thirty or forty. I don't remember. But I think it was thirty, so put down thirty.

Q. Okay. When you got -- when you got to Mr. Kube's house in Linden on that day, what did you do with the \$30?

A. He asked me, got everything that I had.

* * * *

Q. Now, back in April of 1977, did you have any bank accounts at that time?

A. Yes.

Q. Did you have a savings account?

A. Saving account and checking account.

Q. Okay. Did you know how much money was in the saving account on the day that you went to Mr. Kube's house?

A. Sixteen-hundred dollars.

Q. Okay. Now, when you were in Mr. Kube's office that day, back in April of 1977, did you give him the passbooks for your savings account?

A. Yes.

Q. Did you also give him checks, blank checks?

A. Yeah.

Q. For your checking account?

A. Yeah.

* * * *

Q. What did Mr. Kube say was the reason that he wanted the bankbook?

A. For my board.

Q. For your board?

A. Board -- room and board.

Q. For anything else?

A. What?

Q. For anything else? Was he going to buy you anything else from that money?

A. And the checking account -- I mean, he says that it was for clothes, to buy clothes.

Q. He was going to buy you clothes from that money?

A. Yes. Never bought any.

Q. Never bought you any clothes?

A. (The witness shakes his head.) He even took what I had, everything that was worthwhile, took it away from me and they give you old clothes.

Q. Mr. Macris, did Mr. Kube tell you how much your rent was going to be?

A. (The witness shakes his head.)

Q. No?

A. Never told anybody.

Q. So you never knew how much your rent was, did you?

A. No.

* * * *

Q. Back in April of 1977 when you were living at Mr. Kube's house, didn't the social security mail you a social security check in your name to your bank?

A. Yeah.

Q. And that went into the bank account, didn't it?

A. Yeah.

* * * *

Q. Okay. Did Mr. Kube ever bring you any kind of checks from your checking account and ask you to sign your name to the bottom of the check?

A. Yeah.

EXAMINATION BY MR. CASEY (CONTINUING):

Q. After you left Mr. Kube's home when you were staying at Elizabeth, you said you left there sometime in November of 1977; isn't that right? Did Mr. Kube give you your bankbook back?

You have to say yes or no.

A. No, no bankbook.

Q. So to this date you never got a bankbook back, have you?

A. No more money from him whatsoever.

Q. How about your checkbook; did you ever get that back?

A. No.

Q. Did Mr. Kube ever tell you that he owed you some money?

A. No.

Q. Did he ever tell you that you owed him money?

A. Well, the money that when he ask me to sign that check for my board. That's all.

Q. But you don't know how much you were signing for, did you?

A. No.

EXAMINATION BY COMMISSIONER LANE:

Q. Now, you had sixteen-hundred dollars in your account when you first entered Mr. Kube's house. How much of that sixteen-hundred dollars do you now have?

A. Now I have -- I have nothing from that.

Q. You have none of it. Did you ever get any of it back?

A. No, I never got any.

Q. The whole sixteen-hundred is gone?

A. I don't know where it's gone. I don't know.

MR. CASEY: You didn't get it, did you?

THE WITNFSS: No.

Not Much Food

As had Mrs. Klin, Mr. Macris also complained about the way Mr. Kube treated his boarders:

Q. Mr. Macris, did Mr. Kube ever give you any personal money when you were staying either at Linden or in Elizabeth?

A. Never give us any money, not anyone in there.

Q. Can you tell us what the food was like at Mr. Kube's boarding home?

A. Well, no good. That's all. Just enough to feed a pigeon.

Q. What did you have for breakfast usually?

A. Cereals, all different kind cereals, packages.

Q. Little boxes of cereal?

A. Yeah, and a half -- one slice of toast or half, what they call those --

Q. English muffin?

A. Thomas's English muffins, right.

Q. Did you ever have any juice?

A. Juice? Once in a while.

Q. Did you have coffee or anything in the morning?

A. Coffee, yes. Coffee or tea and we had it more than one cup anyway, the coffee.

Q. Okay. How much breakfast in the morning? Did you get as much to eat as you wanted for breakfast? Could you have seconds? Say you wanted another box of cereal, could you have another box of cereal?

A. (The witness shakes his head.)

Q. Your answer is no you couldn't have another box of cereal?

A. No.

Q. What would you generally have for lunch?

A. We had either peanut butter and jelly sandwich, just one sandwich, or spiced ham, one slice of spiced ham and tea or coffee.

Q. Tell us, please, what would you generally have for supper?

A. Supper, most of the times we had a little soup with meat and potatoes and you could get a second bowl, but that'a all, and coffee.

Q. Coffee

A. No dessert.

Q. No dessert. Suppose you wanted to have something later on in the evening after you had super, could you get anything?

A. Nothing.

State Police Handwriting Expert

State Police Trooper E.J. Greenwood, a respected authority on questioned documents and on handwriting, was asked by the Commission to give expert testimony on checks that Mr. Kube apparently wrote in the names of Boarder Charles Macris and the late Edward Rudensey. Trooper Greenwood is a member of the State Identification Association and the International Association for Identification, has examined 1,000 questioned documents and has testified as an expert on documents and handwriting at trials in Middlesex, Ocean, Morris, Somerset and Cumberland counties.

Commission Counsel Casey referred the witness to a number of exhibits of various documents, including cancelled checks and samples of signatures of Messrs. Kube and Macris and of the late Mr. Rudensey. In each case, Trooper Greenwood verified that Mr. Kube signed and endorsed the Macris and Rudensey checks.

In connection with the check that was obtained and cashed after Mr. Rudensey's death, the Trooper Greenwood testified:

You will find the name Edward Rudensey. Under that is the Joseph Kube signature. Now, I did not indicate on my report that I found that Joseph Kube did, in fact, sign this endorsement, but I am well satisfied that he did such.

COMMISSIONER LANE: Signed both those names?

THE WITNESS: Yes, he did, sir.

A. (continuing) He signed both the Edward Rudensey name and Joseph Kube name. I did not address myself to that question at the time, but it wasn't directed to me, but that, in fact, is the situation.

Again, I did satisfy myself that these were both natural free-flowing writings and they were executed by one and the same person, that being Joseph Kube.

How SSI Checked Up*

One of the deficiencies in the Supplemental Security Income or SSI program was the inability of the Social Security Administration to assure that recipients remained eligible for the checks that were assigned and mailed to them and that the recipients resided at the address to which their checks were mailed. It also became evident early-on in the Commission's investigation that what little effort was being made to guard the integrity of the SSI program was ineffective -- for several reasons. One reason was that unscrupulous boarding home operators found it easy to circumvent the regulations. Another reason was lax enforcement by SSI field agents.

Laxity on the part of a Social Security field inspector was dramatically illustrated during an official visit to Mr. Kube's licensed boarding home in Linden one day by two of the Commission's special agents, Richard S. Hutchinson and Joseph Corrigan. The scene that was enacted in their presence fleshed out the less detailed

*See Joseph Kube's testimony on "when the inspectors came, P.32.

version that Mr. Kube gave during his appearance as a witness. Counsel Casey pressed Agent Hutchinson for particulars:

Q. Did you, on January 25th, 1978, pursuant to your duties as special agent with the State Commission of Investigation, have occasion to visit at Joseph's Rest Home located at 230 East Linden Avenue, Linden, New Jersey?

A. Yes, I did.

Q. What was the purpose of that visit?

A. To serve a subpoena upon the owner-operator of the boarding home, Mr. Julius Joseph Kube.

Q. When you first entered the facility, what observations did you make?

A. On January 25th, 1978, approximately 1:45 p.m., Special Agent Joseph Corrigan and myself arrived at the facility. We were advised by the housekeeper, Mary Kozak, that Kube was not present, however he was expected back in the very near future. She invited us into the facility, asked us to wait in the living room and then asked us if we wanted a cup of coffee.

Q. While you were waiting for Mr. Kube's arrival, did you make any other observations?

A. Yes, sir. Approximately five minutes after our arrival, Mrs. Kozak placed a telephone call to an individual she identified as JJ, subsequently identified as Mr. John Travis. She indicated to the person she was speaking to that there were two individuals from the state and that was the end of the conversation.

Q. Did there come a time that another individual entered the Joseph's Rest Home?

A. Yes, sir. Approximately five minutes later a vehicle arrived in front of Joseph's Rest Home and parked on East Linden Avenue. The driver of the vehicle was a white male, carried a black attache case and he entered the residence. As he entered the residence, he was greeted by the housekeeper, Mary Kozak. He stated that he was there to see Basso, Fetchik and Cook and proceeded into the kitchen area of the residence. He was seated at the kitchen table and he was asked if he wanted a cup of coffee.

Q. What happened next?

A. Approximately five minutes later an individual identified as John Travis, also known as JJ, entered the residence. He came over, introduced himself, asked if he could help us. I advised him that we were there to see Mr. Kube and that was the end of the conversation.

Q. Now, Did Mr. Travis remain at the rest home?

A. Yes, sir.

Q. And where is the white male who you previously testified came into the facility, where was he located?

A. He was in the kitchen, seated at the kitchen table.

Q. Now, did anything occur after that, after the individual, the white male, was in the kitchen? You were located in the living room; is that correct?

A. That's correct.

Q. What happened then?

A. Approximately five minutes later when Mr. Travis arrived, Mrs. Kozak attempted to place several phone calls. She was having difficulty in having to place the call, forgetting the number. She hollered into the kitchen, where Mr. Travis was located, for the phone number. Mr. Travis shouted the number back to her and at that time she dialed a number on the telephone.

Q. Were you able to determine the number? Based on the shouting, could you hear the number?

A. Yes, sir.

Q. Just to repeat, you could clearly hear the number being shouted?

A. Yes, and I could overhear the conversation.

Q. What happened next?

A. She placed a phone call and she spoke to a party who she identified as Sophie. She then requested the individual to bring over Basso, Fetchik and Cook and that was the end of the conversation.

Q. Did a car ever arrive at the residence?

A. Approximately fifteen minutes after the phone call a green Plymouth, New Jersey registration 609-EZM arrived in the driveway of the residence of 230 East Linden Avenue. The driver of the

vehicle, subsequently identified as Ronald Hurt, exited the vehicle and escorted three elderly individuals into the home.

Q. Is the male individual, that we will call him at this point, did he ever have a conversation with these three people?

A. Yes, sir. The three individuals were taken into the kitchen area. The female was seated at the table and the other two were taken to another location at the residence. The individuals answered -- asked a series of questions to each one of these individuals.

Q. Could you tell me what some of these questions you overheard were?

A. Yes, sir. He asked each of them how much cash they had on hand; did they have any insurance policies; what their marital status was; did Mr. Kube give them any cash from their checks; did they have a checking account; and how much they had to pay Mr. Kube to live at the facility.

Q. Were you ever able to identify who this individual was?

A. Yes, sir.

Q. How were you able to make that identification?

A. When the individual first arrived at the residence, while Mr. Corrigan and I were waiting, I copied down the license plate number of his vehicle.

Q. Then based on this information from the license of his car you were able to, through routine procedures, check what his name was; is that correct?

A. That's correct.

Q. Did you ever determine who this individual worked for?

A. He was a field representative for the Social Security Administration and he was working out of the Elizabeth office of social security.

Q. Did you ever attempt to make any further contact with this individual?

A. Yes, sir, I did. Approximately two days later, in fact, two days later, January 27th, 1978, at approximately 9:00 a.m., I placed a phone call to the social security office in Elizabeth requesting to speak with the individual and was advised that he was not in, and I left my name and number to have the call returned to me.

Q. Did you ever get in contact again with this individual?

A. Approximately 10:00 a.m. that same date a social security representative called me back.

Q. Can you tell me what the substance of this conversation was?

A. I asked the representative his reason for being in that facility on the 25th of January. He indicated to me that he was there to redetermine if the three individuals were, in fact, living in the licensed facility and, if, in fact, they were still eligible for their SSI benefits. He indicated that the main reason that he was there was to determine their eligibility, if they were actually living in the licensed residence.

I asked him if he was able to make that determination, and at that point he stated he could not talk to me because of the Privacy Act.

Q. Did the conversation end at that point?

A. No, sir. I posed a hypothetical question to him. I asked him that if this other security representative went to a licensed nursing home, asked for three people, was advised that he would have to wait, observed the individual who he had asked place a phone call and ask for these same three people and then 15 minutes later a car arrives and these three people that he had asked for were going into the residence, was it a fact these people did not live at that residence.

Q. And what was his reaction to that example?

A. He stated that he would have to assume they lived at that residence because they had signed their forms.

Q. Did you talk about anything else?

A. Yes, sir. He did indicate that he asked one person where they slept, but that individual didn't answer him. He also indicated that he was not an investigator and did not go further into any particulars in this area. He stated he only went to verify that the people were there and had talked to him.

At this time he indicated that he didn't know where to check and he asked me where he should go. I asked him if he had looked at the sheltered boarding home register, at Joseph's Rest Home.

Q. Is this the register which each licensed boarding home is required to keep --

A. That's right.

Q. -- by the Department of Health?

A. That's correct. He stated that he had no knowledge of the register. I advised him that under the sheltered care boarding home regulations for the State of New Jersey that each licensed facility must maintain an accurate register of each patient at that facility. With this, he asked me if I had looked at the register. I told him I had, and he asked me if the names were on the register of Basso, Fetchik and Cook. I told him that they were not. I indicated at that point that I would like to arrange a meeting with him at his convenience, and he indicated that he could not make that arrangement until he talked to the supervisor. At that point I thanked him for returning the call and the conversation had ended.

Q. Did this individual, at any time during your conversation either at the licensed facility or your subsequent phone conversation, explain any awareness that three individuals had travelled from one location to another location where that representative spoke to them concerning their eligibility, whatever?

A. No, sir.

Q. Did this individual from social security ever display any awareness of any possible means to determine whether an individual had travelled from one facility to another or whether he was aware of a means to determine where, in fact, the person actually resided?

A. Yes, sir.

Q. How were you able to determine this?

A. The obvious way was to check the boarding home register. The boarding home register did not indicate that Basso, Fetchik and Cook were at that residence.

The other method I used was when Mrs. Kozak had hollered for the phone number and Mr. Travis had given it back to her, I copied the phone number down and simply looked up where the phone number was listed and the location and found the residence.

Q. Concerning these three individuals, were you ever able to determine the amount of their SSI check?

A. Yes, sir, I was.

Q. How were you able to do that?

A. All three of the individuals were getting the maximum rate.

More Proof of Lax Controls

Further testimony on laxity in checking up on the pay-out procedures for SSI checks was provided by Anthony J. Leip, a field service supervisor in the Quality Control Bureau of the State Division of Public Welfare. As such he supervised quality control reviewers who conducted independent inquiries into publicly administered programs involving public assistance. One of his bureau's responsibilities is what is called a "review of federal cases," such as the SSI programs, because state-financed supplements are a part of all SSI checks paid out by the federal government. Counsel Schirmer asked Mr. Leip about a survey conducted in October, 1977, of boarding homes:

Q. After completing the initial survey, did you then complete the investigation of all known homes?

A. Yes, we did.

Q. Mr. Leip, I show you a document marked C-64 for identification, dated April 27th, 1978 from Mr. William Richardson to Mr. Riti, subject SSI Boarding Home Survey. Is this the document you just referred to?

A. Yes, it is.

Q. And what were your findings in that report?

A. As a result of our final -- our full-field investigation, okay? A number of the homes that we had originally identified as being over their capacity appeared to be within their proper limits, okay? And there were specific reasons as to why these homes appeared to be okay.

Q. What were some of the specific reasons?

A. Okay. Probably the primary reason is that the accuracy of our division's printout was greatly affected by the incomplete and inaccurate information contained on the SDX tapes, okay? Namely that this printout was supposed to identify all individuals receiving checks at a specific address for the month of December, 1977, okay? When we went out to do the actual field investigation, we found out that a number of these individuals had not resided at specific boarding homes for over a period of time, okay?

Secondly, we were dealing with an outdated listing from -- of approved boarding homes which we had gotten from the Department of Health, okay? We were operating with one that was dated, I believe, May of 1977. Once we actually got involved into the field work, I believe the Department of Health later issued an order for an up-to-date listing and that was dated in September. We had already started our field work.

Q. Thank you. Did your survey disclose that four of the boarding homes identified were, in fact, over their approved capacity?

A. Yes, they did.

Q. Were you ever able to identify whether the individuals lived at that facility or were located at another facility and simply brought over at the time of your survey?

A. In four of the homes that we had identified as being over the capacity, the individuals, as far as we could tell, the individuals resided at that home.

Q. Actually, so it was a situation of overcrowding?

A. Yes.

Q. Did you find -- did your findings also indicate the possibility that two homes were misrepresenting information in order to collect the higher SSI rate?

A. Yes. In the instance of two boarding homes, we found individuals who hadn't been identified by our printout as residing in the main facility, were actually residing in the boarding home proprietor's private resident. There was, in

CONTINUED

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the instance of one of the boarding homes, in the second situation, individuals identified by our printout were found to be residing in an adjacent facility, okay? Which was approved by the Department of Community Affairs, however it was not licensed by the Department of Health.

Q. And at the Joseph's Rest Home, the Pleasantville Home, you were never able to verify whether these operations were being used as satellite facilities; is that correct?

A. Correct.

Q. What is your financial conclusion concerning the thirty-dollar personal allowance?

A. In reference we had very good indication of what our -- what findings we were going to have right from the very -- on our initial interviews. Due to the fact that the -- I'd say the majority of the boarding home proprietors kept inaccurate or inefficient records, okay? As far as verifying the information with them, it was virtually impossible.

Q. So you're saying inaccurate, not accurate?

A. Inaccurate, correct, and trying to verify the information with the actual beneficiary was often times insufficient because of the fact that they were so mentally deficient.

Q. Did you also find that individuals residing in facilities not licensed by the Department of Health were receiving the check in the amount of \$308.

A. Yes, we did.

Q. And were you able to verify that some of these people were residing in state mental hospitals?

A. Yes, we did.

Q. Is this a legal arrangement? Is someone entitled to receive \$308 if he resides in a state mental hospital?

A. Not to my knowledge, no.

Health Department Inspections

Mrs. Doris J. Bray, a registered nurse, is a supervisory health care facility evaluator in the State Health Department's Life-Safety Inspection Program. She testified, as the final witness in the Commission's initial public hearing session, on her experiences in evaluating conditions in boarding homes, noting that she had a background in boarding home inspections dating back more than 10 years. Commission Counsel Tosti:

Q. Have you noticed the recent increase in abuses?

A. Well, when I first came to work in the program, everyone that lived in a boarding home for sheltered care was placed there under a purchase and care agreement either with family care out of the mental institutions or with the Welfare Departments, unless they were a private-paying client. When the system changed and the payments were made through social security, the residents no longer had their own individual case workers, and that's when more and more problems came to our attention, because the residents, and even the others, didn't know who to turn to to help them with their problems.

Q. Was there then a requirement in the past that placement from licensed to unlicensed boarding homes had to be made through a case worker?

A. Placement were made through case workers unless they were a private client and private clients did make their own arrangements also.

Q. When did this system change?

A. I believe it was in 1974.

Q. Is that the same time as the implementation of the SSI Program?

A. Around that time. I know it came strongly to our attention in 1975 because we had occasion to speak to the Public Advocate's Office about the problem that we had had discovered.

Q. Do you believe that a program of spot-checks of all homes in addition to an annual inspection would be an improvement in the present system?

A. Yes, I believe that it would be an improvement. We do that sometimes now, but we really don't have enough staff to do too many extra visits.

Q. Do your duties also include conducting complaint visits on unlicensed boarding homes?

A. Yes. They are done by the members of the surveillance team or sometimes the boarding home girls go out on boarding home complaints.

Q. And what problems do you look for when you conduct a complaint visit in an unlicensed home besides the exact nature of the particular complaint?

A. Well, we try to give an overview look at the operation when we go in in addition to checking the complaint. We try to spot-check the rest of the operation of the home. We usually review the records. Also we check the register and resident records and the menus usually, the food supply.

Q. If no supervision is offered at the unlicensed home does the Department of Health have any jurisdiction?

A. Well, according to the standards they have to be providing supervision to be in violation of our statute, and if they are not providing services, they are -- we have no jurisdiction.

Q. So, then, even if the residents require supervision and none is offered there can be no violation of a Health Department manual of standards?

A. That's correct.

* * * *

Q. Are you aware of licensed homes that -- licensed boarding homes by the Department of Health which have branched out and have opened one or more affiliated unlicensed homes?

A. Yes.

Q. Are you also aware that many boarding homes for sheltered care residents receive funds from social security and SSI?

A. Yes, I'm aware of that.

Q. And are you also aware that there are separate rates for licensed and unlicensed boarding homes?

A. Yes, I'm aware of that.

Q. Have you ever learned that some of these unlicensed homes are receiving a higher licensed rate?

A. Well, I know that lots of times we will review the records on a licensed home. We might come across additional records made out to the licensed address for residents that are not living there. We sometimes have reported this to social security, but I don't know what the outcome is.

Q. But as the office is structured now, the Department of Health -- does the Department of Health have access to the SSI rate information of the boarding home residents?

A. No, we don't have access to that information. That information is confidential.

Q. If a boarding home operator transfer a person from a licensed to an unlicensed home, is that a violation of the regulation?

A. NO.

Q. Even if the resident now in the unlicensed home is an ex-patient from a psychiatric hospital, is it true that there's no one who follows-up to see that that person is receiving the care he requires?

A. It all depends upon the county. Some counties do have a few case workers, but most of them don't have a case worker to follow-up. The case workers are available to provide services upon request of the clients.

Q. And sometimes the clients do not know to whom to reach out?

A. That's correct. Yes.

Q. Do you receive a listing from the Social Security Administration of those people reported in the unlicensed homes?

A. No, we never receive that information.

Q. Can you determine from the register of a boarding home whether a group of persons or a person has been transferred to an unlicensed boarding home?

A. No, we really can't. We ask the operators many times to put forwarding addresses on the register or at least have them available on the resident's records, but they don't always comply with that and they really don't have to keep that information.

Q. There is no regulation requiring a forwarding address?

A. No, no.

Q. So as the system now stands, is it true that a boarding home that wants to remove itself from the jurisdiction of the Department of Health can merely turn in its license and yet remain in the boarding home business as an unlicensed facility?

A. That's true. They can turn in their boarding home for sheltered care license and they have an option of opting as a boarding home.

Q. When I say "unlicensed home," I'm referring to licensed by someone other than the Department of Health.

A. Yes.

The Kube Home Inspection

Mrs. Bray was asked to discuss a complaint and her report on an inspection of Joseph Kube's licensed home in Linden and his two unlicensed satellite homes in Elizabeth. She said the report was the result of conducting a "special visit" to Mr. Kube's facilities:

Q. Did you find residents at an unlicensed home, namely 717 Carlton Street, who had formerly been at the licensed home of Mr. Kube?

A. Yes, we did. There were 12 residents in that home.

Q. Was this home in violation of your regulations?

A. Yes, it was.

Q. Did -- in the course of your inspection, did Mr. Kube indicate that other former residents of the licensed facility were at other locations?

A. No. Mr. Kube wasn't here the day that we made this inspection in this property. There was a man there by the name of Mr. Hurt and he only addressed himself to the people that were in that home and the services that he was providing.

Q. Did you also discover an unlicensed facility at 718 Edgar Road?

A. There was a home there with three people in it.

Q. But since that had three people that was not a violation of the regulations?

A. No, we didn't consider that in violation because you're allowed to provide services for three people without a license.

Q. Did you have any information as to the SSI rates being received by those residents who had been transferred?

A. No, I did not.

Q. I note that this report is made on February 16th, 1978. Was any action taken against Mr. Kube?

A. I know that that report was forwarded to the Division of Public Welfare for clearance about the checks, and I believe that a response was pending and until the response came action was delayed.

Q. But as of yet there has been no response from the Division of Public Welfare?

A. Not to my knowledge.

Q. Has a report been made to the Social Security Administration concerning your finding of these residents at the unlicensed address?

A. Not through our office.

Q. That's --

A. To my knowledge.

Q. That's not a regular function of your office?

A. Well, this was a special report and it was just recently that the Division of Public Welfare took over that responsibility.

Widespread Irregularities

Mrs. Bray's testimony indicated widespread irregularities in the use of unlicensed satellite homes by operators of licensed boarding homes, ostensibly to take advantage of larger SSI checks that kept coming to the licensed facilities in the name of recipients who had been transferred to unlicensed satellites.

Q. I show you what has previously been marked C-71 for identification, which purports to be a copy of a report dated May 19th, 1978, concerning a visit to Pleasant Manor Home in Pleasantville, New Jersey, and I ask if you can identify that?

A. Yes. This is a report of the Pleasant Manor Home. It's a boarding home for sheltered care.

Q. What did you find?

A. I found that there were extra people there. We found that there were extra people in the licensed facility that were receiving services and they were being housed next door in an unlicensed building.

Q. Was this a violation of the regulations?

A. Yes, it was.

Q. Do you know of other instances of licensed homes operating in conjunction with unlicensed homes?

A. Yes, I do.

Q. Approximately how many are you aware of?

A. Counting operators that have other unlicensed homes in addition to their own or relatives that operate unlicensed homes in addition to their own, there are 26 or 27 that I can think of.

Q. As the system presently exists, is there any way for you in the Department of Health to discover whether these affiliated homes are actually satellite homes for the purpose of collecting the maximum SSI rate in the unlicensed home?

A. No, there's no way that we could determine that.

THE TESTIMONY -- Second Day

TRANSITIONAL STATEMENT

Chairman Rodriguez emphasized at the start of the second public hearing session the Commission's desire to make as clear an exposition as possible of the problems plaguing the boarding home industry. One need, he said, was to provide a bridge from one day's testimony to the next in order to increase public comprehension of these problems. He opened the second public hearing with these comments:

Usually during its public hearings the Commission proceeds from one day's session to another without any transitional comment. However, there are times when complex issues develop that warrant the interjection of a clarifying statement. This is such an occasion.

The Commission therefore wishes at this point to describe how today's testimony will relate to certain vicious practices in the boarding home industry that were reviewed yesterday--while also extending into other aspects of the abuses that plague this industry.

Commission counsel yesterday elicited testimony from witnesses demonstrating the extent to which an unscrupulous operator can degrade and loot enfeebled residents of boarding homes not only with a flagrant disregard of the elemental principles of human decency, but also quite obviously in violation of the laws of this State.

There were admissions on Monday by a boarding home operator that he plundered the meager personal resources of boarders. His atrocious conduct included: the theft of a blind woman's savings account, the piracy of another boarder's bank accounts, the endorsement and cashing of a dead man's check, and the signing of a recipient's signature to an SSI check.

Today's hearing record unfortunately must absorb further evidence of callous indifference by boarding home operators to the material needs and personal interests of their wards. But, in contrast

with much of yesterday's record, forthcoming testimony here will demonstrate how certain abusive practices can be perpetuated that do not violate laws or regulations governing the industry.

For example, there will be a harsh testimonial spotlight on the industry's inhuman "transfer traffic". We will show how the more helpless boarders are shunted like chattel from place to place. The testimony will confirm the absolute needlessness of many such transfers--abruptly arranged in one instance merely to help a friend to get started in the boarding business by providing her with a few live bodies. And the record will confirm how some transferred aged and infirm boarders literally get lost in the shuffle.

There also will be exposed the abysmal lack of technical or professional qualifications among many operators and the absence of requirements for such capabilities despite the dire need by many boarders -- particularly former mental hospital patients -- for at least some daily supervision.

We also will expand today on the misuse of "unlicensed" satellite boarding homes in which to warehouse transferred residents from licensed boarding homes merely so the operators of more remunerative licensed facilities can reap excessive and unwarranted profits. We will show also how large "retroactive" Supplemental Security Income checks received by certain boarders are misappropriated after they get into the hands of some operators.

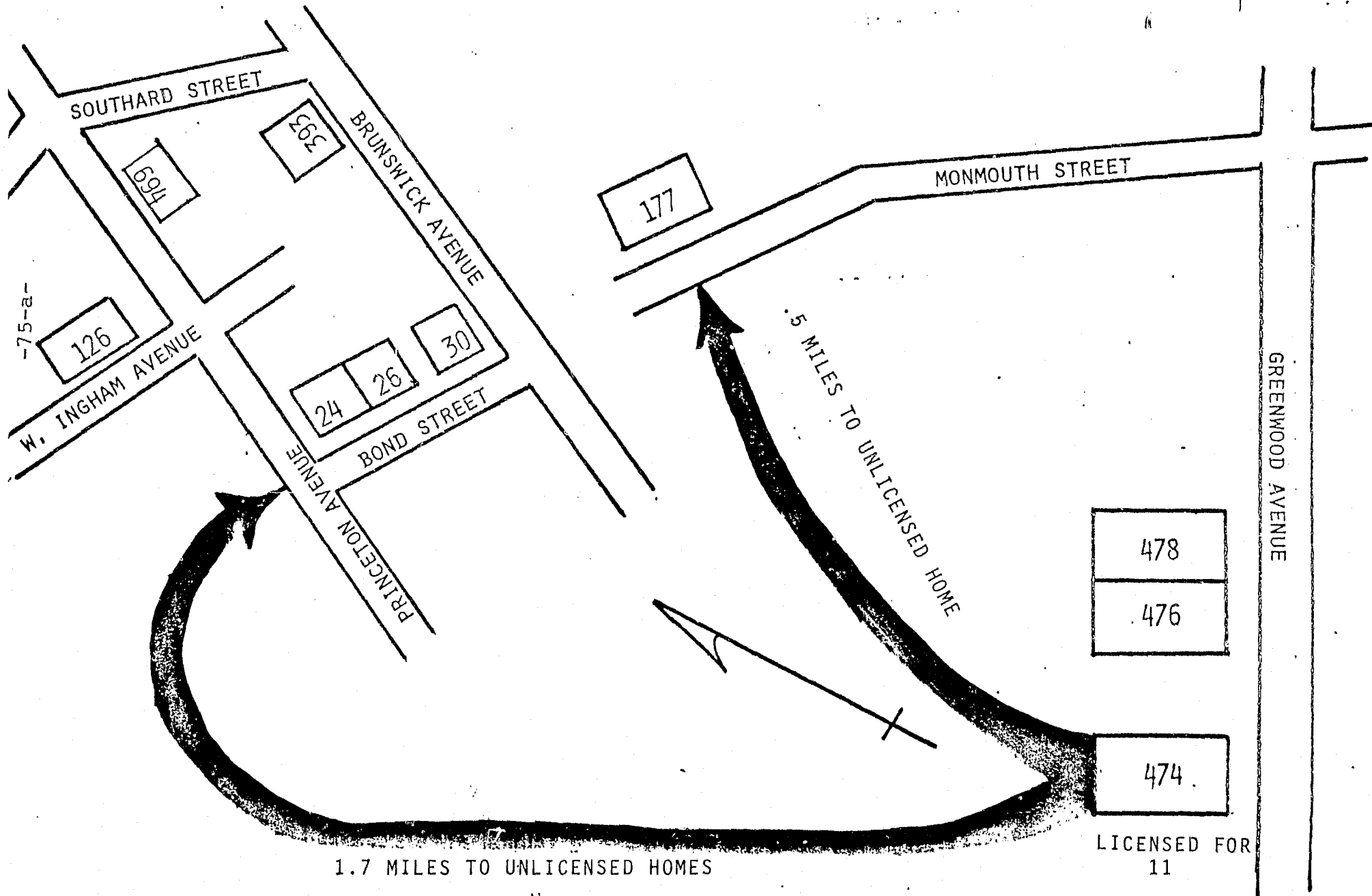
In addition, the Commission this afternoon will begin an assessment of procedures by which mental patients are released, or "dumped," into these problem-plagued boarding homes in accordance with a national trend toward "de-institutionalizing" mental hospitals.

Mrs. Little Boarding Home Network*

The day's first witness was Mrs. Anne A. Little of Trenton. She operated a boarding home licensed by the State Health Department and a network of satellite boarding homes which were not licensed by that department. Counsel Schirmer:

*See Chart, P. 75-a.

ANNE LITTLE
BOARDING HOME OPERATIONS



1.7 MILES TO UNLICENSED HOMES

LICENSED FOR
11

Q. Do you actually work at the boarding home?

A. Yes.

Q. What are your responsibilities?

A. I check out everything there.

Q. What does that mean?

A. That means supervise, supervisor there.

Q. What do you mean by supervisor? What do you have to do during the day?

A. You have to check on everybody, you have to see if the toilet paper, soap is in the house, fixing the right menus for the patients, see if the patients have had their baths and see if the house is clean, see if they have their medications, also.

Q. Is 474 Greenwood Avenue considered your main facility?

A. Yes, it is.

Q. Is 474 Greenwood Avenue licensed by the Department of Health?

A. Yes, it is.

Q. What is the licensed capacity of 474 Greenwood Avenue?

A. Eleven patients.

Q. Do you own any of the property which you now or at one time used as a boarding home?

A. Yes, I do.

Q. Would you list these properties, please?

A. 476 Greenwood Avenue and 478 Greenwood Avenue.

Q. The question is: Did you ever operate another property as a boarding home?

A. Yes, 30 Bond Street and 24 Bond Street and 26 -- that was a Family Care, not Sheltered Care -- Monmouth Street also, 177 Monmouth Street and 393 along with Reverend Simmons.

* * * *

Q. Thank you. What is the most people that ever occupied 474 Greenwood Avenue?

A. Eleven.

Q. What is the most people that ever occupied 476 Greenwood Avenue?

A. I've had about 15 people there.

Q. How about 478?

A. That's one house, that on common deed, those two houses are together.

Q. Is there an access between one facility and the other without going outside?

A. Yes, it is.

Q. What was the most people that you ever had at 177 Monmouth Street?

A. Three.

Q. What was the most people that you had at 30 Bond Street?

A. I had six there that I can remember.

Q. The most people that you had at 24 and 26 Bond Street?

A. Five at one house and five at the other.

Q. What was the most people that you ever had at 393 Brunswick Avenue?

A. Was around six people there.

No Professional Training

It was apparent from Mrs. Little's testimony that the requirements for operating a boarding home were minimal:

Q. Mrs. Little, what is the highest grade you completed in school?

A. Eleventh.

Q. Eleventh grade?

A. Yes.

Q. Do you have any experience in the health care field other than operating a boarding home?

A. No, I never had any training there, but I did work at Fort Dix for nine months.

Q. What did you do at Fort Dix?

A. Taking care of the patients, serving their meals.

Q. Did you administer drugs?

A. No, I did not.

Q. At the time you applied for a license to run a licensed boarding home, were you asked by the Department of Health or any agency concerning your qualifications to run a licensed boarding home?

A. No, I was not.

Q. Since you began operating a licensed boarding home in 1973, I understand did you ever receive any type of training from the Department of Health or any other state agency?

A. No.

Mrs. Little's testimony demonstrated the increasing presence in the boarding home population of former patients of mental institutions:

Q. Let's understand what I'm saying and what you're saying. You are saying that at your licensed facilities 476, 478 Greenwood Avenue --

A. Yes.

Q. --11 people came from mental institutions; is that correct?

A. Right.

Q. At your licensed facility 474 Greenwood Avenue, seven people came from a mental institution; is that your testimony?

A. Yes--can I get the names together here--yes, I think that's true, seven, to my knowledge so far.

Q. So, in total Mrs. Little, of the 26 people you have at your three facilities 17 came from mental institutions?

A. Yes.

Q. Are many of these residents on medication?

A. All right. 474 everybody on medication except three peoples.

Q. Eight people then are on medication?

A. Yes.

Q. Are some of these people on more than one medication?

A. I think so.

Q. Looking at 476, 478 how many people in that facility are on medication?

A. Everybody there except about two or three is on medications.

Q. So, approximately 13 people?

A. Yes.

Q. Who administers the medication?

A. They take it themselves now.

Q. At 474 who administers the medication?

A. I have a nurse comes in every morning.

Q. When did this nurse first come?

A. Oh, about a year ago.

Q. Do you ever administer medications?

A. Before then?

Q. Before then.

A. Yes, I did.

Q. Do you have any training in the administration of medication?

A. No.

How Boarders Received Medicine

Q. When you did give out medications, how would you do it?

A. I would get the bottles, give them the bottles, and they would take their medication out of the bottles, and take it themselves. But, I would be there with them.

Q. Are you required by the Department of Health--do you have a nurse come in to administer the medication?

A. No, I'm not.

Q. Why did you decide to have a nurse come in?

A. I did that because I know I didn't have the training. I was getting so many problems, and I did that to protect myself and the patients, that's why I got the nurse.

Q. Do you know what a side effect is, side effect of a medication?

A. Do I know the side effects? No, but when I know something is wrong with the patients.

Q. How do you know that?

A. I know their reactions.

Q. Could you describe to me some of their reactions?

A. If some of those people get real drowsy and sleeps a lot all day long, then I know something is wrong with the medications, something is wrong with them. I'm with those people enough to know when something is wrong.

Q. Would you know what to do if there was a reaction?

A. No, I call the rescue squad if anything is wrong with them, I call in the doctor.

Q. How often do you call the rescue squad?

A. Whenever anyone is sick, if it is every-day I call them.

Q. I show you what has been marked C-73 for identification which is a Register of the Little Sheltered Care Home. I refer your attention to page 93. Would you read the medications that Mrs. Morgan was taking.

A. Now, some of this medication I cannot pronounce.

Q. When was Mrs. Morgan in your facility?

A. She left my facility 1977. She was there in 1973.

Q. And she was on medication at the time?

A. Yes, she was.

Q. And you just started having a nurse one year ago?

A. Yes.

Q. So, for approximately three and a half years, four years you administered medication without the nurse?

A. Yes, I could read this on the bottles.

Q. Do you see the name Quinidine on page 93 at the top of the list?

A. Yes.

Q. Did you supervise the administration of that drug with Mrs. Morgan?

A. Yes, I did, if she is taking it, I did.

Q. Did you take Mrs. Morgan's pulse before you administered that drug?

A. No.

Q. Are you aware that you are supposed to take your pulse before you administer that drug?

A. I was not a trained nurse, I didn't know anything about that, no one told me that.

Q. Did you continuously monitor her pulse after you administered that drug?

A. No, I didn't because I never take no pulse.

Q. Were you aware that her pulse rate should have been continuously monitored after you gave that drug?

A. No.

Q. Do you know what would happen if Mrs. Morgan forgot to take her medication?

A. No, I don't.

Q. Were you aware that residents on Quinidine could die if they weren't given their medication?

A. No, no. She went to her own doctor once a month, also.

Q. But, she didn't go to her own doctor to get the drugs everyday, did she?

A. No, she did not.

Q. Mrs. Little, I represent to you that in your patient register there are various notations of drugs administered to your residents. Among others are Phenobarbital, Dilantin, Thorazine, Benadryl, nitroglycerin, Mellaril, Dyazide and Ritalin. Do you know what the reaction to any of those medications are?

A. No.

Q. Do you know if any of these drugs have side effects?

A. No, I don't. I don't know if those drugs have side effects.

Q. Do you know the implications of an overdose of any of these drugs?

A. If they sleep a lot I know that if they sleep a lot -- I can't say if that's an overdose or what.

Q. You don't know then?

A. No.

COMMISSIONER LANE: Mrs. Little, any state agency requires you as an operator of a licensed facility to have knowledge of drugs and medications that is to be used by patients?

THE WITNESS: No.

COMMISSIONER LANE: Have you had any instruction from any state agency in regard to medication?

THE WITNESS: No.

Mrs. Little said she received rent from boarders by means of checks that come in to them from the welfare agency, Supplemental Security Income (SSI) and Social Security.

Q. So, whenever you get a check from any of your residents you give them a receipt for it?

A. Yes. Sometimes the bookkeeper takes care of that if I'm not there, if I'm not there, the bookkeeper does.

Q. But, in any event either yourself or your bookkeeper will give a receipt?

A. I can't say what the bookkeeper does, but she's supposed to do that at all times.

Q. But, you run the home, don't you?

A. I run it, but I'm not there every minute.

Q. You are responsible for the home?

A. Right.

Q. Referring to the chart that has been marked C-72 for identification, you've previously testified that 474 is your licensed facility; correct?

A. Yes.

Q. You further testified that there was several other facilities which were unlicensed facilities?

A. Yes.

Q. What is the difference between a licensed and an unlicensed facility?

A. The payment is different. The licensed facility gets a higher rate than the unlicensed facilities.

More than the size of the rental payments differentiated boarding homes licensed by the State Health Department from homes the department did not license. Mrs. Little gave her version of the difference:

Q. Is there any other difference?

A. Yes, they are supposed to take their own medication, you are not supposed to give them no supervisions at all.

Q. Where is this?

A. The unlicensed.

Q. You are not supposed to give them any supervision?

A. No, you are not supposed to.

* * * *

Q. Mrs. Little, I show you a letter marked C-74B for identification which is from the Little Sheltered Care Home dated September 7, 1977 signed by Mrs. Anne Little, and I ask you whether you can recognize that letter?

A. Yes.

Q. Could you read that letter to me?

A. To whom it may concern: Please be advised that from this day forward I shall be responsible only for providing food, laundry and shelter for residents at 476, 478 Greenwood Avenue. There shall be no personal care or service beyond food, shelter and laundry.

Q. Why did you write that letter?

A. I wrote this letter because the Board of Health told me I wasn't supposed to give any of these services because people there are supposed to be able to take care of themselves.

Q. Now, you again mentioned the Board of Health, are you referring to the Department of Health?

A. Department of Health.

Q. Mrs. Little, you have as the caption on that letter "to whom it may concern". Where was that letter sent?

A. I sent that letter to state hospitals, all the hospitals that I deal with I sent this letter there.

Q. Was the letter also sent to the Department of Health?

A. Yes.

Mrs. Little said she sent the letter of September, 1977, to the psychiatric hospitals because they had been sending her boarders who required supervision without indicating that such supervision was needed.

Q. And how often did this happen?

A. Any time they had someone to send me, they would send them out and I didn't know the history of hardly any of the peoples. I didn't know the history of them. When I sent them this letter and when they called me about any other patients after then, I would ask them then if that person could take care of themselves, could take his own medications or otherwise I wouldn't take them.

Q. Did you always get this information:

A. Well, sometimes, yes.

Q. Did you always get the correct information?

A. No.

* * * *

Q. Assuming that an individual is placed at one of your boarding homes, who would make the decision to place them in your licensed or unlicensed boarding home?

A. I make some of the decisions.

Q. You make the decision?

A. Yes, if that person is with me for some time, if this person is in my unlicensed home and I find out that that person needs care, then I get to the doctor, I do this lately, get the doctor, and then we move them.

Q. Prior to the doctor, you normally made that decision?

A. Yes.

The Transfer Traffic

Mrs. Little said the hospitals were not consistent in providing medical background, if any, on boarders they referred to her. Sometimes, she testified, "they send you a file and sometimes they don't." Mr. Schirmer continued his questioning:

Q. At the times that they don't, how do you make a decision where to place them if you don't have any experience with them yet?

A. I put them where there is an opening.

Q. Wherever the opening is, and then at some further point in time you decide this person needs supervision, this person doesn't?

A. Yes, yes, that's right.

Q. And then at some point in time when they are at your facility you may change your decision and put them into another facility?

A. Yes. Yes, sometimes by myself, sometimes along with the doctor, sometimes with the state Board, the people from the state, they also tell you, you know.

Q. Are there any regulations that you are aware of from either the Department of Health, some other state agency or any agency at all which would prevent you from transferring a person from a licensed to an unlicensed facility, just your awareness?

A. No, I'm not aware of that.

Q. Are there any regulations which would prevent you from taking a person from your unlicensed facility and putting them into your licensed facility?

A. Regulations? I'm not aware of that.

Q. You are not aware of it?

A. I don't think so.

* * * *

Q. Did someone recently advise you that a doctor would have to approve a transfer of a resident from a licensed to an unlicensed facility?

A. Yes.

Q. But, you are not aware of any regulations which required this?

A. They told me if that patient needs supervision he would have to go over to 474. Sometimes I get these people, like on a Friday from the welfare, from the hospital emergency. They don't have anyplace to go, they don't have no place to go, so then I takes them in.

The Cardazone "Transfers"

Mrs. Little testified about Louise Cardazone, who was "transferred" to her boarding home from the M & M Rest Home, a facility that she said was licensed by the Health Department.

Q. Do you know why Louise was transferred to your facility?

A. I guess because she smoked.

Q. Because she smoked?

A. Yes.

Q. Was it approximately the beginning of the year?

A. Yes, 1978.

Q. Did Miss Cardazone come of her own free will or was she transferred by the operators of that facility, if you are aware?

A. No, Mrs. Moore called me and asked--told me she had a patient that she was getting someone else, and if I had room for one--she asked me, and I told her I had room in both houses, I had one in the licensed home and also in the unlicensed, so she said for me, she could go in either one of the homes. But, I would have to call her sister if I wanted to put her in the unlicensed home.

Q. But, the conversation was with Mrs. Moore, the operator of the M & M Home and not with Mrs. Cardazone; is that correct?

A. That's right.

Q. Just to help you refresh your recollection, when Mrs. Cardazone came, I show you a calendar book C-83 for identification which purports to be your register book for your licensed and unlicensed boarding home, and I'd ask you whether you can find the name of Louise Cardazone in that book?

A. Yes, yes.

Q. And she was first located in where?

A. 474 Greenwood Avenue.

Q. Your licensed facility?

A. Yes.

Q. How long did Mrs. Cardazone stay at your licensed facility?

A. She stayed there not long, it must have been about three weeks. She didn't stay there long.

Q. Three weeks, and where did she go?

A. 476 Greenwood Avenue.

Q. And why was she moved to 476 Greenwood Avenue?

A. Louise was another person that will surprise you. Over next door someone at 474, no one could get along with her and she was smoking a lot. She started to go in everybody's room at night stealing.

* * * *

Q. So, after one month--just let's look at the history of Louise--she comes from the M & M licensed boarding home.

A. Right.

Q. Comes to your facility. She goes to your licensed facility 474. You decide, or she asks you to go to the 476 address?

A. That's right.

Q. How long did she stay there?

A. 476? She didn't stay over there too long because over there she was doing worse.

Q. What was she doing over there?

A. She burned up about 30 spots in my rug. She stole from everybody. She just stole and burned up everything. She worried everyone to death.

Q. And this was your unlicensed facility?

A. Yes, and I called M & M Rest Home.

Q. And this is the person that five weeks earlier you decided didn't need any supervision?

A. She was in 474, you don't know a person until they are there with you.

Q. But, based on your experience what you previously testified to that you can decide when a person--

A. Not overnight.

Q. --when a person needs supervison or not?

A. Not overnight, some of these people are tricky.

Q. But, after three weeks you decided she did need supervision?

A. Yes.

Q. But, after five weeks she did need supervision?

A. On cigerettes, on the cigarettes.

Dr. Burgess* and the Transfer

Mrs. Little said she "discussed" the transfer of Mrs. Cardazone from her licensed facility to an unlicensed home with a physican, Dr. George L. Burgess.

Q. And what did that physician do?

A. He came out and checked her over. He came out and checked her over, you know, like he always do to all the other patients.

Q. Mrs. Little, I have a letter dated 2/12/78 marked C-74 for identification captioned Louise Cardazone, signed by Doctor Burgess. I'd ask you just to look at the letter and familiarize yourself with that letter.

A. Yes, this is a letter.

Q. Mrs. Little, if you can, would you read the letter?

A. Louise Cardazone, 57, January the 3rd, 1921, and it has her pressure and pulse here. This is to say that the above named is all right to 476. She's able to care for herself. She only smokes heavy at times.

Q. Doctor Burgess signed that letter?

A. Yes.

Q. Does Doctor Burgess often come to your facilities?

A. Yes.

Q. So, Doctor Burgess apparently took her blood pressure; is that correct?

A. Yes.

*See testimony of Dr. George L. Burgess, P. 103.

Q. Apparently?

A. And her pulse.

Q. And then had to say this is to say that the above named is all right to 476. She's able to care for herself. She only smokes heavy at times?

A. Right.

Q. Is that your understanding of all that has to be done when a person is transferred from a licensed to an unlicensed facility?

A. Louise, she could do everything for herself and she did everything for herself.

Q. Answer the question.

A. Yes.

Q. Did Doctor Burgess know the person?

A. No, I didn't know her.

Q. Had he ever examined the person before?

A. He had seen her once, but he didn't know her.

Q. Did he have the medical history of that person?

A. No, he didn't have that history.

Q. Did he know if the person had any emotional problem?

A. No, I didn't either.

Q. But, Doctor Burgess could decide that this person didn't need supervision?

A. Yes.

The Heitzender Transfers

One boarder involved in the transfer traffic at Mrs. Little's boarding home network, William Heitzender, was an epileptic. She said she didn't know about his medical disability until she "found him on the porch all falling down and rolling."

Q. Now, I'm referring your attention to the book marked C-73 for identification page 113.

A. Mr. Heitzender was not at 474.

Q. Mrs. Little, just for my information, would you read the caption on the top of that page?

A. William Heitzender 474 Greenwood Avenue.

Q. But, he was never there?

A. He was never there.

Q. That's a mistake?

A. Yes, it is a mistake.

Q. Do you keep these records?

A. I'm a--yes--but I'm a very poor recordkeeper.

Q. Is that your handwriting?

A. Yes, it is.

Q. You made a mistake?

A. Yes, I did, and this was filled in after the day I made that mistake myself. This is in pencil and the others are in ink.

Q. So, that must have meant that at some future date you apart from all the other writing on that page put that particular address for that person?

A. Yes, that's right.

Q. But, that doesn't indicate he lived there?

A. No, he did not live there.

Q. Did he then--was he ever at your unlicensed facility?

A. Yes, he was.

* * * *

Q. Was Mr. Heitzender ever moved to another location?

A. Yes, he was.

Q. Where was that?

A. He was moved to 126 Ingham Avenue and was also at Waynewright Avenue.

Q. What's Waynewright Avenue?

A. That's Miss Hill run that house.

Q. Did you transfer him to that facility?

A. Yes, I did. They went on because the state recommended so many people had to leave from that house.

Mrs. Little gave Mr. Heitzender medication without knowing what it was for or what the boarder's reaction would be:

Q. Would you just read the type of medication that Mr. Heitzender is on?

A. Phenobarbital, Mellaril, Dilantin.

Q. Do you know what Dilantin is?

A. No, I do not.

Q. Do you know why a person would take Dilantin?

A. No, I do not.

Q. Do you know that epileptics take Dilantin?

A. No, he was one I found out later.

Q. You didn't know it in the beginning?

A. No, I did not.

Q. He never had any reactions?

A. He only had one or two and I didn't know.

When he had the first one I was surprised.

Q. You don't know what it is?

A. I didn't know--he was on the porch all falling down and rolling. I didn't know what that was. I never seen an epileptic like that. I do know people have it, but not like that.

* * * *

Q. Well, let's go to something else, Mrs. Little. The next facility he was transferred to, where is that located?

A. Mrs. Rose Mosley, 126 Ingham Avenue. He was there, and he was also at Miss Hill's.

Q. Where did he go first?

A. He was at Miss Mosley's first. He was there first.

Q. How long was he at Miss Mosley's?

A. Oh, about a week or two, something like that.

Q. Why was he transferred to Miss Mosley?

A. Miss Mosley had quite a few people, you know, and Miss Hill didn't have anybody.

Q. Now, Mrs. Little, before we were at the chart you told me you didn't know how many people Mrs. Mosley had.

A. I don't know the number.

Q. Going back to Mrs. Mosley, he stayed at Mrs. Mosley's, then he went back to your facility?

A. No, he went to--he came to my house one day.

Q. Is this because you have little traffic of people between Miss Hill and yourself?

A. No. No, no, it is not.

Q. Now, after Mr. Heitzender came back to your facility he then went to Mrs. Hill's. How long did he stay at Mrs. Hill's?

A. I don't know. I guess about three weeks, I'm not so sure.

Q. Then what happened to Mr. Heitzender?

A. I don't know, I guess he probably went to Mrs. Mosley. I don't know from there.

* * * *

Q. So, anyway the people that came around that time moved out of your facility it was on the basis of your decision that they needed or should be in another facility?

A. Yes, where it was less peoples and they could take care of these peoples.

Q. Less peoples?

A. Yes, and the sheltered care home there are less peoples and they can give them that better care.

Q. How many people did Mrs. Mosley have?

A. I don't know, she told me she had none.

The Daily Menu -- Mrs. Little's Version

Although subsequent witnesses* were to contradict her, Mrs. Little claimed that not only did the residents of both her licensed and unlicensed boarding home eat the same food, but they ate well from a varied and ample menu.

*See testimony of Rosalie Mosley, P.116, and Frank Gombos, P. 105.

Q. What do your residents of the licensed or unlicensed facilities eat?

A. They eat everything the others eat.

Q. Well, tell me what they eat for breakfast?

A. They have bacon, ham, eggs, grits, sausage, pancakes, corn flakes, milk, juice, coffee, toast, tea.

Q. This isn't all in one day?

A. No, it is not, but you have a menu and you go by that and you try and fix them a good meal. They have orange juice everyday.

Q. Well, just describe your typical meal to me that they have in the morning?

A. Well, we have grits, bacon, eggs, grits, sausage-- eggs. They have coffee. Sometimes a couple eggs and toast and jelly and butter. They have oatmeal.

Q. Who would cook these meals?

A. I have a cook do the cooking. Sometimes I would do the cooking.

Q. Did Mrs. Mosley ever cook for you?

A. Yes, she did.

Q. Is this the same Miss Mosley that later on you transferred people to?

A. Yes, yes.

Q. For lunch, what would the people have for lunch?

A. Yesterday they had steak, she had potato salad. They had peas. She had greens, she had coffee, she had watermelon.

Q. What did they have six months ago?

A. They had whatever they wanted to have. I try to give those people what they wanted to have. Now, sometimes these people do have pig feet because I buy them and I do serve them.

Q. Pig feet?

A. And I serve black-eyed peas.

Q. How expensive are pig feet?

A. They are expensive and the peas are expensive, also.

Q. What do you feed your residents for supper?

A. My residents have potato salad, sandwiches, they have a toss salad, they have tea, whatever they ask for. They have different meals--they have different meals, that's the menu what they have.

Q. And again, whatever you are describing for either breakfast, lunch or supper is the same meal that you had when your licensed or unlicensed facility?

A. I try to give them both the same because they are all human beings.

Can't Prove Food Costs

While Mrs. Little contended she spent about \$3 per day per boarder for food, she was unable to prove it. One of the exhibits introduced was a 1976 federal income tax return, on which she had listed \$26,000 in food purchases. This happened to be \$20,000 more than Commission accountants could verify from vouchers and other records obtained by subpoena from Mrs. Little.

After Mrs. Little confirmed the tax return as her's, Counsel Schirmer asked her to explain a section of it:

Q. And what does that represent?

A. That represents the food that was spent for those 26 peoples that year.

Q. Were your records subpoenaed by the State Commission of Investigation?

A. Yes, it was.

Q. Did these records include the receipts for food?

A. Yes, it did.

Q. I represent to you that when we totaled up your receipts that we had a total of approximately six thousand. On your tax return for 1976 you record as a cost of food \$26,000.

A. That's right.

Q. Well, how could you figure out that it was 26 thousand if you only had six thousand in receipts?

A. That's not right--I couldn't feed nobody like that for no \$6,000. It is impossible to do that.

Q. Well, is \$26,000 right?

A. It is more like right than that, yes.

Q. Mrs. Little, I represent to you that we called your accountant. He told you that he got all the information for this return on a verbal basis from you that he did not have any receipts of any information.

A. Well, I didn't know that because I can't get all the receipts the way I did my shopping.

Q. Could this figure have been arrived at by you saying that it cost you approximately \$1,000 a year to feed your people?

A. No, no.

Q. Do you have any idea how much it cost you to feed your people?

A. Just what I said, just what's down there. I know what I spend for food.

Q. Well, you testified previously it cost about \$3 a day?

A. Yes, you figure that up.

Q. Three hundred sixty-five times three is approximately \$1,000; is that correct?

A. They have milk--

Q. And how many people did you have at your facility in 1976?

A. Oh, about 26 or maybe more, I haven't added it up yet.

Q. So, you could have arrived at that figure that way?

A. Could have with the receipts from the food.

Q. But, you only have \$6,000 in receipts.

A. I can get the other receipts, I have them, more receipts than that.

Q. Did the State Commission of Investigation subpoena all your records?

A. They got some of the records which I had. I didn't have all the records.

Q. Did you make a careful and diligent search for all those records?

A. I looked everywhere I can look.

Did Transfer Pay a Debt?*

The question of a transfer being arranged to pay off a \$115 debt was raised during Mrs. Little's testimony about the shifting of boarder Frank Gombos* from one place to another. Mr. Gombos first came to Mrs. Little's licensed facility at 474 Greenwood Avenue in July, 1975, but he only stayed for about a month before being moved, she testified:

Q. Then what happend?

A. He wouldn't get along with the patients. I had to go into the hospital.

Q. So, you transferred him?

A. So, he came--Mrs. King came down to the house and he went with her for that month.

Q. How long did he go with Mrs. King, for one month?

A. Yes.

*Excerpt from testimony by Frank Gombos:

Q. Did you arrive at Mrs. Little's 474 Greenwood house sometime around July of 1975?

A. That's right.

Q. Were you ever moved to Mrs. Little's house at 478 Greenwood Avenue?

A. I was on 74 for one month. Then she moved me into 478.

Q. Did you ask to go to 478 Greenwood Avenue?

A. No, Just moved me.

Q. Mr. Gombos, did Mrs. Little tell you that you were going to leave and go with Mrs. King for a while:

A. No. The cook told me I was going to leave because Miss King owed Miss Little a hundred dollars. She wanted a boarder.

THE CHAIRMAN: Why was it you were moved to Mrs. King's?

THE WITNESS: Miss King owed her a hundred dollars and she didn't have the cash money, so she asked her for a boarder. So I was the new man over there. Miss King come over for a boarder and took me over to Miss King's house.

Q. Did he ever come back?

A. Yes, he did after I came out of the hospital.

Q. He came back to your facility?

A. Yes, he did.

Q. Where did he go then?

A. He went to 476.

Q. Now, he goes to 476?

A. Yes.

Q. Around the time that Mr. Gombos went to Mrs. King's house, did you owe Mrs. King any money or did Mrs. King owe you any money?

A. No, I owed Mrs. King money, one hundred fifteen.

Q. One fifteen?

A. Or something like that, or something like that, just for the time he lived there at her house.

Q. Did you ever pay that money back?

A. To Miss King, yes, I gave her a check.

THE CHAIRMAN: So you were transferred over to satisfy a debt for Mrs. Little:

THE WITNESS: Yeah, yeah.

Q. Mr. Gombos, Mrs. King came to pick you up, didn't she?

A. Yeah, with a neighbor. They had a car.

Q. And during that ride from Mrs. Little's house to Mrs. King's house, Mrs. King told you why you were going over there; isn't that right?

A. Yeah. She told.

Q. She told you about this debt and why you were going to move over there?

A. That's right.

Q. You gave her a check for one fifteen?

A. Yes, for his room and board while he was there?

Q. Again, isn't it a fact Mrs. Little, that Mr. Gombos was sent to Mrs. King for one month to pay off a debt that Mrs. King owed to you?

A. No, it is not. That's something made up. No, it is not.

Q. And that Mrs. King would support him for one month in repayment?

A. No, it is not. He lived with her for the room and board and that's what that was for the time I was in the hospital.

Ruth Hofford's SSI Check*

In July of 1976, among checks Mrs. Little deposited in her account was a Supplemental Security Income (SSI) check in the amount of \$1,524, payable to Ruth Hofford, and signed by Mrs. Hofford and Anne Little. (Mrs. Hofford contended in subsequent testimony that she never recalled receiving any such check or money amount. Mrs. Hofford was a boarder at Mrs. Little's licensed boarding home at 474 Greenwood Avenue, Trenton.) Since Mrs. Little had indicated Mrs. Hofford owed her money, counsel first sought to establish whether the size of the debt matched the amount of the check:

Q. 1976 any indication she owes you any money?

A. No, it is \$55 here for personal allowance.

Q. No indication she owes you any money?

A. No.

Q. August?

A. August 1st 1976 Ruth Hofford.

Q. Any indication she owes you any money?

A. No, she wasn't paying no rent. I was giving her board, her money.

Q. So, your receipt book doesn't indicate that she owes you any money?

A. No.

*See testimony of Ruth Hofford, P. 108.

Q. Even assuming that she owed you some money, it might be about fifty, \$75?

A. No, it is not. Ruth Hofford did not get money for a long time. She only got \$200 for when she was getting money. She did not get the fee of a licensed boarding home.

Q. At the last private session we had, did I represent to you, and also write a letter to your attorney that if you would like to, you could come to our offices, examine your records as much as you want in order to find any type of indication that Ruth Hofford owed you any money?

A. I didn't receive the letter until the letter came this week, until the lawyer and I didn't -- he didn't have an opportunity to get in touch with me to come up and see about this, and the records are there now.

Q. Did you ever receive any money other than rent from Ruth Hofford over and above her rent?

A. My money that I got from her she got a check for one time, Ruth Hofford got a check.

Q. How much was that check for?

A. I think it is--I think it is \$1500.

Q. And when was that?

A. That was somewhere in February, I'm not for sure--let me see here--I know she got hurt during that time. This was July here.

Q. And did you deposit that check in your account?

A. I don't know. I could have deposited that in my account. She got her money, if the deposit, of course, I did deposit all the checks in my account, but the people got their money.

Q. In addition to the check, did you receive any other check from Ruth Hofford over and above her rental check?

A. Well, I think she did get one check, I'm not for sure of the price, but I think she got six hundred and some dollars.

Q. Six hundred and some dollars? !

A. I believe, I'm not sure what it was.

* * * *

Q. You know one check was \$1,524?

A. Yes.

Q. The other check was less than \$1,000; is that right?

A. Yes, I think so.

* * * *

Q. Do you have a receipt for \$1,524 for Ruth Hofford?

A. I can't find no receipts. If I can I told you that in my records there could be a receipt, but I'm not for sure.

Q. Mrs. Little, I show you which has been marked for identification C-80 a check, United States Treasury check in the amount of \$1,524 made out to Ruth Hofford signed by Ruth Hofford and Anne Little. Is this the check we've been speaking about?

A. One of those checks belongs to Ruth Hofford and I think it was this one.

Q. Was that deposited in your account?

A. One of them I think they was deposited, I'm quite sure one of them was.

Q. Mrs. Little, I show you what has been marked for identification C-81 a deposit ticket Little Shore Sheltered Home July 12, 1976 in the amount of \$1,524. Would that indicate that you deposited that check in your account?

A. Yes, it would.

Q. What did you do with the proceeds from the \$1,524 check?

A. She get her own money, that's the last check she got from her husband, she got that money herself.

Q. You gave the money to Mrs. Hofford?

A. I gave Miss Hofford that money myself with the money we brought back by Mr. Seaview. He had taken the checks to the bank, all of my checks he brought the check back and Mrs. Hofford was right over there and I asked her to go to the bank with him, but she wouldn't go.

Q. And you put in her hand \$1,524?

A. Yes.

Q. I thought she owed you some money?

A. Just a moment, if I can say this; I put that in her hand. She gave me the money back, she said I don't want this much money because I never had this much money in my life. She says only give me \$500 now and \$200 the next day.

Q. Did you recently have a discussion with Ruth Hofford concerning this check?

A. Yes, yes, I did.

Q. Was that after you spoke to the State Commission of Investigation in private session?

A. Yes. Could I say this?

Q. What was the conversation you had with Ruth Hofford?

A. When I went up to Miss Hofford and Miss Hofford went shopping, she got this check for her, and her son--I went up to Miss Hofford. When you asked me to try and get all the information about this big amount of money that I had received from these people--I went to Miss Hofford and I said Mrs. Hofford, I don't have any checkbook--I can't--my receipt book, do you have any receipt book, I'm being investigated and I have to take some receipts back to show that you got your money. She said I have to call the house lady in. I said I want her here in the beginning, so she called her in. I told her the same thing and she said Ruth didn't get no--she didn't get no money. She never got a \$1500 check.

Q. Did Ruth ever say she got the \$1500?

A. She said I don't remember no money. That is what she told me.

Q. Ruth doesn't remember?

A. She said she doesn't remember no money, that is what she told me, she herself did.

Q. Didn't you then tell Mrs. Hofford if she didn't say what you believe to be the truth that you would take her to court?

A. No, I did not say anything like that, only thing I said to her you don't remember the money, I said you don't remember going downtown, you came to me six times and got your money once with your son.

Q. Isn't it true that the housekeeper who was with Miss Hofford then told you to leave?

A. No. Here is what happened: She said Ruth didn't get no money herself. What she said was Ruth didn't have no money when she came here. I said that was a long time ago when she came to you. You know, she--when she don't have no-- if you don't have a good lawyer you better get one because I'm getting her one because she did not have any money. That's what she told me. I never said nothing like that.

Q. Mrs. Little, I show you what has been marked for identification C-82, a United States Treasury check made out to Ruth Hofford in the amount of \$2,800 dated January 13, 1976 signed by Ruth Hofford, and although it is a little obscured, you'll notice Anne Little?

A. Yes.

THE WITNESS: This check was when she was there and did not pay me and that was the month's rent there what's that check was for a lot of times she did not get money. When she didn't get her money or underpaid, sometimes she didn't have no money.

* * * *

EXAMINATION BY CHAIRMAN RODRIGUEZ:

THE CHAIRMAN: Mrs. Little, clarify one of the problems I have with respect to the supervision and slight problem you had with the Department of Health. 478, 476, is it my understanding that one of the problems was that you were providing supervision for residents in those facilities?

THE WITNESS: Yes.

MR. CHAIRMAN: And in order not to have the problem all you had to do was either transfer them out or stop giving supervision?

THE WITNESS: Yes, yes.

MR. CHAIRMAN: And did you ever stop giving the supervision when they were residents that in your opinion still needed supervision?

THE WITNESS: No.

MR. CHAIRMAN: What would you do with those residents?

THE WITNESS: Some of them is there now. If they need a bath I have to tell them they have to take a bath.

MR. CHAIRMAN: Then you would still give a limited amount of supervision to those residents?

THE WITNESS: Yes, yes.

THE CHAIRMAN: Did you ever transfer any of the residents that were in need of supervision in the unlicensed facilities to another unlicensed facility?

THE WITNESS: Yes.

MR. CHAIRMAN: So, that their status as far as supervision didn't get any better, but they were just removed from your property to alleviate your problem with the Department of Health?

THE WITNESS: Yes, because I had to get rid of them. They said I had to move those peoples.

MR. CHAIRMAN: All right, thank you.

Dr. Burgess' Role*

Dr. George L. Burgess of Trenton, who was licensed to practice in 1944, the same year he was graduated from Meharry Medical College in Nashville, Tennessee, was a general practitioner. He testified he worked mornings at Fort Dix and from 6 to 8 four nights a week at his Trenton office. At Fort Dix, he conducts what he described as "primary examinations" of soldiers from 8 A.M. to Noontime daily. He also testified that once a month he examined from five to ten residents of Mrs. Little's boarding home. He was questioned about Mrs. Little's testimony on the transfer of Mrs. Louise Cardazone*:

Q. Dr. Burgess, I show you what has been marked for identification C-74, dated 2/12/78, signed by Dr. Burgess, captioned Louise Cardazone and I ask you whether you recognize that document?

A. Yes, I do. That's my handwriting.

Q. Is this the medical authorization that you filled out for Anne Little?

A. That's the only one I can recall, yes.

*See testimony of Mrs. Little, P.88.

Q. How long did the medical examination take?
A. Between five and ten minutes.

Q. Were you paid for that examination?
A. Not that I can recall.

Q. Did you do it as a favor for Anne Little?
A. I think this -- I think this lady had one of those blue slips that Prudential would pay.

Q. So you got Medicaid benefits for that physical?
A. I don't recall if they paid me for this one.

* * * *

Q. Why didn't -- why was this document made out?
A. Because I was asked.

Q. What were you asked?
A. About this patient being moved because of excessive smoking.

Q. Could you read what the document says?
A. "This is to say that the above-named is all right to 476. She is able to care for herself. She only smokes heavy at times."

Q. Is this the type of document you normally fill out when you examine a person? Do you normally put this type of information on the back of a loose-leaf sheet?
A. No, I don't.

Q. Did you ever see Louise Cardazone before you filled out this information?
A. No, I did not, personally. I just did my examination.

Q. Were you familiar with her medical records at the time you made this examination on your authorizations?
A. No, I wasn't.

Q. Do you know Louise Cardazone's prior history?
A. No, I don't.

Q. On what basis did you say that Mrs. Cardazone could be transferred from a facility where she could receive supervision to a facility where the operator was authorized -- was not authorized to give supervision?

A. Because Mrs. Little wanted this patient closer to her because of her smoking too much. If anything should happen, she would be nearer to her.

Q. What type of instruction did Mrs. Little give you? What was the standard that you were supposed to follow in executing that document?

A. I don't know.

Q. What type of examination did you make?

A. I examined her blood pressure, heart, lungs, listened to her -- took the pulse.

Q. Did Anne Little tell you that she wanted to move Mrs. Cardazone and therefore she needed a document to allow her to move him?

A. I believe --

Q. Move her, I'm sorry.

A. I believe she did.

Q. Did you know anything about Louise Cardazone's mental capacity or emotional?

A. No, I didn't.

Q. Were you aware that Louise had a history of starting fires?

A. No, I don't.

Q. That she had a prior history. Did Anne Little tell you she had a prior history stealing money?

A. I don't recall that. I don't believe she did.

Q. Did you sign this document simply because you were friends with Anne Little; you had done previous work for her?

A. I did it because of the examination.

"Grits Every Morning"

Frank Gombos*, 69, who lived at Mrs. Rosalie Mosley's boarding home in Trenton at the time of the S.C.I. hearings, previously lived at Mrs. Little's boarding home at 474 and 478 Greenwood Avenue, Trenton. He had grim recollections

*Mr. Gombos also testified that he was moved to another boarding home for one month by Mrs. Little, ostensibly to satisfy a \$100 debt she owed to the boarding home operator to whom Mrs. Little sent him. See footnote, P. 96.

of the meals he was served at the Little home, saying "the food was no good there." Commission counsel Casey asked for details:

Q. I'd like to ask you a few questions about the food that you received at Mrs. Little's. First, tell us what you usually had for breakfast.

A. We had grits every morning and on Friday we had a small egg and grits.

Q. Small egg and grits?

A. Yeah, and grits.

Q. Did you have anything else other than grits for breakfast?

A. No.

Q. What did you have to drink --

A. Tea.

Q. -- for breakfast? Tell us what you generally have for dinner; that is the meal at noontime.

A. Sometimes we have a little boiled chicken wing, some rice, wasn't boiled all the way thoroughly. There were a little potato or collard greens.

Q. What would you generally have for supper?

A. We had -- we have some -- once in a while we get a bologna sandwich, one slice of bologna, and some spinach and tea.

Q. Mr. Gombos, would you ever go outside of the home to get something to eat?

A. Yeah. Down at the train station every day.

Q. What would you eat down at the train station?

A. One egg and a cup of coffee.

Q. Did you ever have a hot dog or anything like that?

A. Once in a while for dinner, a hot dog, cup of coffee.

EXAMINATION BY COMMISSIONER LANE:

Q. How would you characterize the food at the Little boarding house? Was it good, bad or indifferent?

A. Wasn't any good at all.

Q. Was there enough food at these meals?

A. No.

Q. Not enough?

A. Wasn't enough and wasn't any good. I never knew what collard greens, grits or spinach was down South Trenton.

Q. And did you ask if you could have a second helping?

A. Nobody got no seconds there no matter what it was.

Q. At no time?

A. No seconds at all.

Q. Could you get seconds at supper time.

A. No.

Q. How about after supper, would you ever have an opportunity for say a snack in the evening before going to bed?

A. No. It was only down at the train station, bought a hot dog, went down, got a Tastykake pie, something like that.

Q. How about the residents that didn't have this extra money that you had, what would they do if they wanted something else to eat?

A. They would go down and get a cup of coffee and maybe a cruller.

Q. Where would they get that?

A. The train station.

Q. So they would supplement whatever they were getting from the nursing home, I mean boarding home, by going to the train station?

A. Yeah. Some of them would be down there payday and get themselves one egg, a piece of sausage and a cup of coffee.

Receipt for Less Than He Paid

Mr. Gombos also testified that Mrs. Little gave him rent receipts that were \$110 less than he actually paid to her every month.

Q. How much rent were you paying at Mrs. Little's?

A. Two-hundred-seventy a month.

Q. And at the time you were receiving \$310 a month from Social Security?

A. That's right.

Q. That would be for a total of \$310?

A. That's right.

Q. Mrs. Little would take \$270?

A. That's right.

Q. Did she give you receipts?

A. Yeah.

Q. How much --

A. The receipts --

Q. -- were the receipts for?

A. The receipts was made out for hundred-sixty, but she got two-seventy.

Never Saw Large Checks

Mrs. Ruth Hofford testified that she never saw any large SSI checks that came to her at Mrs. Little's boarding home, saying: "She used to take them out of the envelopes and turn them upside down and I'd sign them that way, but I didn't know how much was on." Mrs. Hofford also recalled that Mrs. Little came to her at the Norwood Manor, just prior to the S.C.I.'s public hearings, to ask Mrs. Hofford to sign a statement that she had received \$1,524 and \$2,800. These were the amounts of two checks to Mrs. Hofford that Mrs. Little had deposited in her own account. Counsel Casey questioned the witness:

Q. Did you ever see any checks for large amounts of money?

A. No.

Q. Mrs. Hofford, I'd like to show you a check that's been marked C-80 for identification. It's a check dated July 6th, 1976. It's made payable to you, Ruth Hofford, with the address 474 Greenwood Avenue and it's in the amount of \$1,524.

First of all, I'd like you to take a look at the back of the check.

A. That's my writing, yes, because I make that funny R.

Q. Right. Now, take a look at the front of C-80. Have you ever seen the front of that check?

A. No, no.

Q. Never got a check for --

A. No.

Q. -- \$1,524? Did you ever get money, cash money, \$1,524?

A. No, no.

Q. And I'd like to show you what's been marked C-81 for identification, which is a copy of a United States Treasury check in the amount of \$2,800.90. It's dated January 13th, 1976. It's made payable to you, Ruth Hofford, with the address 474 Greenwood Avenue, Trenton, New Jersey.

Now, take a look at the back again.

A. That's my writing. I know that.

Q. Okay. Now, take a look at the front.

A. No, I never seen that.

Q. Have you ever seen a check for that amount?

A. No.

Q. Did you ever receive --

A. No.

Q. -- \$2,800.90 from Mrs. Little?

A. No. All I used to get is \$30 a month.

Q. Thank you. Mrs. Hofford, I'd like to direct your attention to June 17th, 1978, ten days ago. Did Mrs. Little come to see you at the Norwood Manor?

A. Yes, she did.

Q. And did she ask you to sign a statement that you had received \$1,524?

A. Yes.

Q. And two-hundred-eight-hundred --

A. Yes.

Q. What did you say to her?

A. Well, I didn't sign them and that lady that died, she heard her and told her to get out because I was getting all nervous and all.

Q. The woman who operated Norwood Manor, Mrs. Stadnick?

A. Yes.

Q. She told Mrs. Little to leave?

A. Yes.

Q. Did Mrs. Little tell you that if you said that you hadn't received this money that she was going to take you to court?

A. Yes, and get a lawyer with me.

* * * *

EXAMINATION BY COMMISSIONER LANE:

Q. This meeting of ten days ago, Mrs. Little came to where you're now residing?

A. Yes.

Q. How did she initiate -- who initiated this talk about checks or money?

A. Mrs. Little came over herself. She came up herself.

Q. And who initiated, who talked about money?

A. She did. That's why she was up about it, I guess, money.

Q. Have you ever heard of a fifteen-hundred-dollar check before?

A. No. No, not from her.

Q. How about a check for \$2,000?

A. No.

Q. Two-thousand plus?

A. No.

Q. This is all brand new to you?

A. Yes.

Mrs. Little's Visit Witnessed

Mrs. Virginia Caldrone, who used to "help out" at the Norwood Manor, was there on June 17, 1978, when Mrs. Little confronted Mrs. Hofford with a demand for receipts for the two large checks. She testified in tandem with Mrs. Hofford. Counsel Casey asked Mrs. Caldrone to recall the Little visit.

Q. Did you happen to hear the conversation that was taking place between Mrs. Hofford and Mrs. Little?

A. I didn't at first until Ruth started to get extremely upset, and I heard the word, "Would you sign a receipt that you received a check," which I thought Mrs. Little said was for a thousand dollars. That was the only amount, monetary thing, I heard, and as Ruth explained --

Q. *What did you do then?*

A. I told my employer about it.

Q. *And who is your employer?*

A. Miss Stadnick.

Q. *What did Miss Stadnick do?*

A. Well, at that time she didn't say anything, but when Ruth got extremely agitated, I told her she better get in there and do something because I was afraid Ruth was going to take a seizure.

Q. *In fact, Mrs. Stadnick did go in the room, didn't she.*

A. Yes, she did.

Q. *And what did she do?*

A. She told Mrs. Little that if she was up here to upset Ruth, she could leave right then and there.

Q. *Did you hear any discussion about going to court, Mrs. Hofford being sued?*

A. Words to that effect, yes. Mrs. Stadnick said -- Mrs. Little said she had a lawyer, and Mrs. Stadnick said that that was perfectly all right, if Ruth needed a lawyer, she would see to it that she would get one.

"Cereal and Tea All the Time"

The Commission asked Mrs. Hofford to also comment on the quality of life at Mrs. Little's -- including the food service.

EXAMINATION BY COMMISSIONER KADEN:

Q. *Mrs. Hofford, how long did you live in Mrs. Little's home?*

A. About four years.

Q. About four years. Could you tell us a little bit about what it was like. What did you have for breakfast, for example? What was the food like?

A. Used to get cereal and tea all the time and coffee was so dear she gave us tea all the time.

Q. Tea all the time. What kind of food did you have for breakfast most of the time?

A. Most of the time, cereal. Cereal.

Q. Did you ever have bacon and eggs or --

A. Once in a while. Never. Not very often.

Q. Not very often. What about for dinner; what did you have for dinner usually?

A. Soup and sandwich.

Q. Soup and sandwich. How would you characterize the food, was there enough of it?

A. You couldn't help yourself. You put plates on -- just put in on your plate.

Q. Just put in on your plate?

A. Yeah.

Q. How about the living conditions; did you have a room of your own?

A. No. We was three people in the room, three.

Q. Three people in the room. And how much rent were you paying a month?

A. I don't know. I used to just get \$30 back out of the welfare check. I don't know.

Q. How does the food compare at the home you're staying in now?

A. Way better. Everything is better.

Lost in the Shuffle

One of Mrs. Little's former boarders, William Heitzenroeder, not only was transferred without the knowledge of his family but once even became lost. Word that he had been missing came not from Mrs. Little but from the police who found him. Counsel Casey questioned Mr. Heitzenroeder's sister, Mrs. Frieda Poper of Milltown, about these experiences:

Q. And was Mr. Heitzenroeder ever a patient in the Trenton Psychiatric Hospital?

A. Yes, he was.

Q. Directing your attention to July of 1976, did you have occasion to travel to Trenton Psychiatric Hospital for the purpose of visiting your brother?

A. Yes.

Q. And when you arrived at Trenton Psychiatric Hospital, was your brother there?

A. No, he wasn't.

Q. Did the Trenton Psychiatric Hospital tell you where he was?

A. Yes. They said he was at Little's Sheltered Care Home.

Q. Trenton Psychiatric Hospital advised you that he had left the hospital and had gone to Mrs. Little's home?

A. That he was transferred there, yes.

Q. Did they advise you prior to you showing up at the gate?

A. No, they didn't. They didn't notify me at all.

Q. Well, you were listed as a person to be notified with respect to your brother.

A. Yes. I had my name and phone number there.

Q. After you learned that your brother was in Mrs. Little's, did you go to Mrs. Little's?

A. Yes, I did.

* * * *

Q. Did you speak to your brother that day?

A. Yes, I did.

Q. Subsequent to that time did you ever receive a telephone call from Mrs. Little in which she advised you that your brother was missing from her facility?

A. No.

Q. Were you ever contacted --

A. You mean --

Q. -- by the South Brunswick Police Department?

A. Yes, I was.

Q. That they had located your brother?

A. Yes, I was located -- I mean, I was contacted.

Q. Where did the South Brunswick Police Department find your brother?

A. They found him on the railroad track in Deans.

Q. Well, did someone from your family go to pick up --

A. Yes. My younger brother John did.

Q. What was your brother's condition when he was discovered by the police?

A. He was very hungry because he was missing for two days. He was very dirty and he had a sprained wrist, knees all banged up and everything from walking the railroad tracks.

Q. Is it your testimony that Mrs. Little never advised you that your brother was missing at that time?

A. No, she didn't advise me at that time. I got a call --

Q. Referring back a moment to the time that your brother was found by the South Brunswick Police Department, after he was cleaned up, was he then returned to Mrs. Little's home?

A. Yes. My brother brought him back to Mrs. Little's.

Q. I'd like to now direct your attention to the month of December, 1977, shortly before Christmas. Did you have occasion to travel to Mrs. Little's home for the purpose of visiting your brother?

A. Yes. I went to see my brother and they told me there that he was transferred again.

Q. He was not there?

A. He was not there.

Q. Did you talk to Mrs. Little on that occasion?

A. Mrs. Little wasn't there. I spoke with another woman. She told me.

Q. What did that woman tell you?

A. She told me he was transferred to Mosley.

Q. Did she indicate the address of Mrs. Mosley's home?

A. Yes. She gave me the address and I went there. I located him there.

Q. Did you find your brother at Mrs. Mosley's home?

A. Yes.

Q. Did you have occasion to speak with Mrs. Mosley?

A. Yes, I did.

Q. Did Mrs. Mosley advise you of the circumstances which caused your brother's transfer?

A. She told me that they were overcrowded there at Little's and that he had to just be transferred and he would have to be transferred again from there, from her place.

Q. All right. Did you ask Mrs. Mosley to please advise you if he was going to be transferred?

A. Yes, I did, and she said she would.

Q. And that was in December of 1977?

A. That's right.

Q. And in January of 1978 you began to make arrangements to have your brother transferred to a facility closer to your own home; isn't that correct?

A. That's right.

* * * *

EXAMINATION BY THE CHAIRMAN:

Q. At the time your brother was transferred from Mrs. Little's home to Mrs. Mosley, was he still in need of some supervision?

A. Yes, he was in need of supervision, but Mrs. Mosley told me he was very good and --

Q. Were you aware of the fact that Mrs. Mosley's was not a licensed boarding home?

A. She told me it wasn't. Mrs. Mosley told me herself that it wasn't.

Q. Yet these transfers were made at no time in consultation with you or any other member of the family?

A. No, nobody was notified.

Mrs. Mosley Testifies

Rosalie Mosley, a boarding home operator at 126 West Ingham Avenue, Trenton, used to work for Mrs. Little as a cook and as a general sort of supervisor. When Mrs. Mosley opened her own place, Mrs. Little helped her out by transferring some boarders to her.

Mrs. Mosley testified she came to Mrs. Little in 1972 or 1973 and cooked and helped to care for about five residents each at homes Mrs. Little then ran at 24 and 26 Bond streets and for eight or nine boarders at another Little home at 30 Bond street.

Counsel Schirmer first asked how Mrs. Mosley handled medication needs of the boarders.*

Q. What was the condition of these people that were residing at those facilities?

A. Well, some take their own medicine and some of them couldn't take their medicine.

Q. Did you help supervise their medication?

A. Yes, I help supervise their medication.

Q. Do you have any training in the administration of medication?

A. No, but I can look at the bottle.

Q. Whatever it said on the bottle you followed?

A. That's what I did, yeah.

Q. Were most of the people at 24 Bond Street and 26 Bond Street and 30 Bond Street mental patients? Did they have some type of history?

A. Yes, they did.

Q. Did the majority of these people need your help as far as supervision for medication?

A. Yes, yes.

Mrs. Mosley was asked to recollect her experiences as cook for Mrs. Little:

*See testimony of Mrs. Little, P. 92.

Q. Did the people at these facilities get enough food?

A. Well, sometimes they would.

Q. Sometimes they would?

A. Well, yeah.

Q. When would they get enough food?

A. Well, in the morning they would have oatmeal cooked with water, cooked with water, no butter. Very seldom somebody wants butter, often then we had to buy. Hamburger, something --

Q. Did you every supplement the food? Did you ever buy food --

A. Yeah, I bought some food.

Q. -- at the boarding home out of your own money?

A. Out of my own.

Q. Because you felt there wasn't enough food?

A. Yeah, that's right.

* * * *

Q. What would they receive for lunch?

A. They had ham sandwiches, soup.

Q. How many pieces of ham in those sandwiches?

A. One.

Q. One piece of ham? Anything besides ham sandwiches and soup?

A. Yeah.

Q. What else?

A. Well, that would be all.

Q. That's all they would get?

A. Coffee.

Q. And coffee?

A. Yeah.

Q. Would that be reheated?

A. Yeah. That's right.

Q. How many times a week would they have ham sandwiches?

A. They would every day, you know, just for noon.

THE CHAIRMAN: One piece of ham in a sandwich every day?

THE WITNESS: Yeah.

Q. What would they receive for supper?

A. They would have pig's feet, neck bone, like that in water. Some type of cabbage, collard greens, white potatoes, peas.

Q. Is pig feet considered a delicacy -- is pigs' feet considered a delicacy?

A. Some people call it hogs' foots.

Q. I'm sorry. I couldn't hear that.

A. Yeah. Pig feet. You know, pigs' feet.

Q. It's good?

A. I don't eat pigs' feet.

Q. Why not?

A. I don't like them.

Opened Her Own Boarding Home

Mrs. Mosley recalled that Mrs. Little "gave" her some boarders when she opened her own place about three years ago.

Q. Did you want to start a boarding home operation?

A. Yeah. Yeah, yeah. I wanted to still have some people there.

Q. Did you talk to Anne Little about this?

A. Um-hum.

Q. What did she say?

A. Yeah. She said if she gets them she'll give me some people, so she did.

Q. Did she give you some people?

A. So she did.

Q. Who did she give you?

A. Alexander Clayborne, Anthony Swacak.

Q. Anybody else?

A. No.

Q. When did she give you these people?

A. It wasn't long ago.

* * * *

Q. Did Mr. Heitzenroeder come from Anne Little's?

A. Yes, yes. He came. He was there.

Q. When she called you, why did she say she had some people for you, people for --

A. She said she had too many.

Q. She had too many. She was overcrowded then?

A. Yeah.

* * * *

EXAMINATION BY THE CHAIRMAN:

Q. Mrs. Mosley, actually, then, the people that basically you had at your residence or your boarding home basically come from Mrs. Little's, most of them?

A. Yes. Yes, they did.

Q. And the same for Mrs. King?

A. That's right.

Q. And those that come to your place from Mrs. King's usually go there from Mrs. Little's also?

A. Yes.

Health Department Inspections

Following the Commission's public hearing format, counsel called for reactions and other comments by public officials most directly concerned with the issues raised at the public sessions to date by operators and boarders.

The first such governmental witness at the second hearing session was Sharon E. Juliano, a registered nurse and an "evaluator" for the State Health Department's Health Facilities Evaluation-Life Safety Inspection Program. It was her task to investigate complaints against boarding homes and other health care facilities, prepare reports and conduct surveys, either individually or as part of a team that consisted of four nurses and a pharmacist.

She described for Counsel Tosti what happened in connection with a complaint dated October 27, 1977, about conditions in Mrs. Rosalie Mosley's home in West Ingham Avenue, Trenton:

Q. Do you know who initiated this complaint?

A. The Mercer County Welfare Department.

Q. Did you file a report on the basis of your investigation?

A. Yes, I did.

* * * *

Q. Could you tell the Commissioners what you found in Mrs. Mosley's home?

A. Yes, I can. There were nine guests living at that address; six of whom required assistance in bathing, dressing, taking medications. Also needed assistance in shaving and two of them were taking medications or receiving medications of six.

Q. Is this home licensed by the Department of Health?

A. No, it is not.

Q. If it's not a licensed facility, then any supervision or care rendered would be in violation of the manual of standards?

A. Yes.

* * * *

Q. You testified that some of these residents were upon medication. What kind of medication did you find?

A. One particular resident was receiving Haldol which is a tranquillizer used in the treatment of psychology patients. The other, Dilantin, which is used in the treatment of seizures associated with epilepsy.

Q. Would the presence of these medications indicate that the residents might need supervisory care also?

A. Yes, it could.

Q. Where were the medicines kept?

A. They were kept in the kitchen of the house on the first floor in a closet.

Q. Was this closet locked?

A. No, it was not.

Q. Were medical records, were charts kept?

A. No, they weren't.

Filthy Conditions

Ms. Juliano was asked by Counsel Tosti if she would describe the condition of Mrs. Mosley's boarding home:

A. Yes. The house was very disorderly. The kitchen was a mess. There were pots and pans in the refrigerator with old, dried food. There were empty milk containers with dried milk, appeared to be dried milk. There were soiled dishes on the table and in the sink with old dried food. The upstairs, some residents were lying on beds with no sheets. Others were lying on soiled sheets.

Q. What were these sheets soiled with?

A. One particular visitor was lying in a bed soiled with feces.

Q. Were the residents dressed in clean clothes?

A. No. The clothes were not clean. They were soiled. Some were torn and disheveled. They did not fit properly.

Q. Were any areas of the home contaminated?

A. Yes. The kitchen I would say. The refrigerator was filthy.

Q. What was the condition of the bedrooms?

A. They were very disorderly. There were flies throughout the house. It was not clean.

Q. Were there fresh food supplies on hand?

A. No, there were not.

Q. What was the condition of the food that was present?

A. It was unfit for someone to eat.

A Matter of Definition/Dr. Michail Rotov

As Chairman Rodriguez noted earlier, the Commission anticipated a discussion of "de-institutionalization" and the impact of this concept from the standpoint of the increasing number of former mental hospital patients in the boarding home population.

The concept entailed a problem of definition, which the next witness addressed.

He was Dr. Michail Rotov, a physician-psychiatrist, and director of the Division of Mental Health and Hospitals in the Department of Human Services. The first question Counsel Schirmer asked of Dr. Rotov was whether he could define de-institutionalization:

A. My personal definition?

Q. Your personal, and then if there's another definition we would also like to hear about that, and if they are the same --

A. Deinstitutionalization generally refers to the process of transferring the care of the mentally ill from public hospitals to the community. The concept of deinstitutionalization began to be questioned because of some deficiencies in community care, and I would say that the definition of deinstitutionalization, operational deinstitutionalization, the definition that I would like to use is that it refers to a program where chronically ill, chronically mentally ill people, were previously defined as being unable to be treated in the community, are being placed for treatment in the community by public hospitals through a program where they're provided with optimum life-support services and optimum psychiatric medical services.

Q. Did the development of drugs have quite a bit to do with the policy of deinstitutionalization?

A. Yes. It was commonly considered to be a number one development -- main impetus for changing the focus of treatment. I believe, however, there are many other considerations that have entered into this.

Q. We have a definition of deinstitutionalization. What is the policy which underlines that definition? Why are people --

A. Yes, I understand. I would rather refer to this basic assumption, four basic principles. One is the requirement to return people who have been segregated in institutions back into the mainstream.

Where Would Ex-Patients Go?

The Commission wanted to know whether "some type of community network" should have coincided with the development of the concept. What community programs were in place, the question was, "to help the transition of people who had been residing for a long time in mental institutions?" Dr. Rotov continued:

A. There was a lag in the development of such a program.

Q. How long was this lag?

A. The initial recommendations were for 2,000 community mental health centers throughout the United States. It is my understanding that somewhere between five and 700 may be operational now. Some of those may be approved by -- but haven't been given funds so the actual number may be somewhat over 500, which is one-fourth of the intended network.

Q. How important was the development of community mental health centers to the policy of deinstitutionalization?

A. It was very essential.

Q. If the community mental health centers were not properly developed, and I think you said 700 of 2,000 did the process of releasing people from the mental institutions continue nevertheless, or was there a cutback?

A. It continued.

The Dumping Problem

Dumping was the Commission's next concern. Dr. Rotov noted that there were two kinds of dumping -- one from the community into mental hospitals and one from hospitals into the community. He put into the record this personal view: "Dumping really means that somebody doesn't want to take care of somebody and somebody wants to get rid of somebody. In an integrated, decent, humane system, there shouldn't be conditions under which one part of the system wouldn't want to take care of somebody and another part of the system wanted to get rid of somebody."

Counsel Schirmer:

Q. Dumping into the mental hospitals, and our primary concern in these hearings are -- is the dumping from the mental hospitals, and if you would develop that thought.

A. Of course I will address your primary concern, but I cannot live with that primary concern having responsibility for a system. I have to deal with both.

Dumping from the hospital into the community refers primarily to a perception that people who are unprepared to deal with community life are being released into the community and that the community may not have or is not prepared or is not willing or doesn't have the resources to deal with these people.

Q. Am I to understand, then, that the number of people that were released during that period were dumped from the mental institutions because they were put into a society that was not prepared to meet their needs?

A. For the United States as a whole. This may be a true statement. It is applicable to New Jersey. New Jersey has developed twenty-five community mental health centers of the fifty that were expected, so whereas in nineteen states generally has developed twenty-five per cent of their expected community mental health centers, New Jersey had fifty per cent of the community health centers.

If we consider the task of the state authority, mental health authority, to provide not only professional help to the mentally ill after they leave the institution, but that it is our task also to provide them life support, life support has not been provided until 1975, therefore one can define this as dumping.

Q. How important is the concept of life support systems to the idea of deinstitutionalization? How important is it to develop a system which addresses a discharged mental patient's housing needs, his financial needs, his emotional needs? Is that essential to placing him in a community where he can exist?

A. I would say it's the number one step, just absolutely, inevitably, that this has to be done.

Q. If I could just summarize, Doctor, then. When the original process of deinstitutionalization occurred, the community health centers were set up, but they were not adequate to meet the needs of the people being released from the mental institutions simply because they only delivered emotional or mental health needs?

A. Yes.

Q. Did we ever go to a new phase where programs developed, started to address these housing needs of whatever, these life-support needs?

A. Yes. I would like to add that the community health centers' deficiency were not limited to not providing life support. The community mental health centers also showed preference for certain type of clientele, less severely ill; the chronically ill, the geriatric were underserved so that even in the area of poorly psychiatric attention the attention was selected.

Q. So the center selected the people who least needed their help?

A. Nader said so, yes.

Q. What do you say?

A. Well, I agree that the target population was wrong.

* * * *

Q. Is dumping still going on, Doctor?

A. If your phrase "dumping" is a metaphor --

Q. Your definition of dumping, the process of releasing people from the mental hospitals without the proper network or system set up in the community to address the needs that they have.

A. Yes.

Q. Whether they are financial, housing, emotional or whatever.

A. Yes.

* * * *

Q. Doctor, I have no further questions. If I have missed any areas which you feel it's important to mention, I offer you time to mention it, mention those areas.

A. Thank you. I will just take maybe three minutes.

I simply would like to state, or restate, that the problem in New Jersey has been recognized by those who are in charge of this problem; that remedial action has begun, remedial action has been recognized by the press; has been recognized by the Senate Committee, Senator Church two years ago, which looked over our deinstitutionalization programs and found it is a proper solution.

The progress should be measured in terms of the complexity of the problem, of the probability of eliminating it, and how fast and how successful we are in achieving our goals year by year.

I would also say this: The problem needs definition. I haven't heard anywhere yet that anyone has defined the problem. The poor condition of people in boarding homes is a symptom of something. It's not a problem in itself. If I have a boil on my body, I may have a diabetes underneath. I'll be treating the boil, but after the boil if I don't address or define what is with me, I will never solve the problem. The solution is somewhere in the area of social action. It's not in the area of legal authority. It's not even in the area of administration. I think that to define the problem should be the first task of any such enterprise. I am satisfied that we have defined our problems for ourselves.

EXAMINATION BY THE CHAIRMAN:

Q. Do you think that the State of New Jersey has the answer now on how to solve these problems?

A. I think we have a solution in principle and we have moved ahead between maybe twenty-five and thirty per cent, and I think 70 per cent needs to be solved, 70 per cent needs to be exposed, analyzed, discussed and defined.

Q. But I would consider, Doctor, that in order to make a proper diagnosis it's important to know all the symptoms and what they are?

A. Yes, sir.

Q. So before we can actually know that we are properly addressing or have an entire answer, it's important to know all the ills that have been created throughout the system, wouldn't you agree?

A. Exactly.

Q. After we know the ills, we can work better toward a solution.

A. Exactly.

* * * *

Q. Of course, Doctor, you're concentrating primarily on residents in boarding homes that in some manner have passed through a mental institution or psychiatric facility?

A. Yes.

Q. Does your system address at all those who are in boarding homes simply because they are aged? Are you reaching those people through your system?

A. Well, by definition, and that's the weakness of the mental health system, being in charge of providing social services, by definition or obligation is to the mentally ill or normally mentally ill. It is an imperfect system for the future because this means that you really have to declare yourself crazy to live a little bit better in the community, and a preferable system for the future would be that mental health establishments provide mental health services and the welfare system, social security system, provides life support so that we don't have to expand into that area. We moved into this area because of deficiencies that were there and our clients were -- there was a vacuum.

"Psychological Profile"

Seeking a first-hand report on how a hospital processed mental patients back into the community, the Commission questioned James J. Petty, a certified social worker with a master's degree in his field. Mr. Petty, a five-year employee of Trenton Psychiatric Hospital, worked in the hospital's out-

patient department, with a case load of between 400 and 500, primarily in the East wing or what is known as the Mercer section. He noted that, so far as his section was concerned, admissions tended to coincide with the discharges each month -- about 70 in each case.

Q. During these proceedings we've talked to boarding home operators who have said that many of their residents are mental patients. Could you help describe for the audience the type of individual or characteristics of a mental patient as far as his abilities to handle his own affairs and things of that nature based on your experience?

A. Okay. If we're talking about a psychological profile of the people that were -- that this Commission is addressing itself to, we're talking about a chronically ill population; people who have been chronically ill for several years of their lives, either in a state -- out of the hospital or perhaps in the hospital. Most have been abandoned by their families; most have residual symptoms of their illness. By "residual symptoms," I mean lethargy, ambivalence, lack of motivation, poor judgment, inability to fend for themselves, inability to protect themselves, inability to be self-directive and mostly lack of insight.

I think most of the people that we're talking about face a readmission rate per every three years. About 70 per cent of these people will be readmitted and the majority of these people are also unemployed.

Q. Would this be the type of population or type of population that, if a person wanted to, be easily abused?

A. Yes.

Q. Would it be likely that this type of population would complain that they were being abused?

A. No. I don't think they have the awareness to know whether someone is taking advantage of them or not taking advantage of them.

Q. What problems would this cause?

A. I think they would be subject to being very easily manipulated in a variety of ways.

Q. Are the bulk of these patients SSI recipients once they are released from the mental hospitals?

A. Yes. Either SSI or social security disability.

Recalling prior testimony about the concept of "de-institutionalization" and about "dumping," Counsel sought an explanation of Mr. Petty's opening comment that monthly discharges from the hospital matched the number of monthly admissions:

Q. Is it merely a coincidence that the discharge rate in your section of the hospital also equals the admission rate?

A. I think there's a recognized need or a recognition that psychiatric hospitals parallel the policies of general hospitals. In general hospitals you only have so many beds and you have constant admissions each day. Unless there are ongoing discharges, theoretically you're going to wind up with a hospital in which people are going to be stacked on top of each other. It's impossible to provide spontaneous additional room for eight, ten, twenty, thirty patients, so I believe that theoretically it seems to be a sound movement in that your number of admissions would be equal to your number of discharges to keep some sort of balance in the hospital.

Q. Would that lead me to believe that regardless of whether a person was prepared to reenter the community that he would be released?

A. Not necessarily, but I do believe that priority would be given to the person who has shown sufficient recovery or sufficient seasoning of the system which brought them to the hospital in the first place, much similar to a general hospital setting where persons who are already well along the road to recovery would be those to be discharged, where those acutely ill would be retained.

* * * *

Q. The fact that 70 people are admitted to the hospital and 70 people are discharged from the hospital, does this result in the release of people to the community that are not prepared to go into the community and release of people in the community to a system which is not prepared to accept those people?

A. Again, I would like to refer to my earlier point. Those who are least ill are usually given the priority of discharge. It is hoped that these persons would link up with community-based resources. No one is going to be released who is considered an overt danger to themselves or to others.

Along with advancements and psychiatric treatment, the average stay in the psychiatric hospital comes down to approximately three weeks. Perhaps years ago it was six weeks. Perhaps years before that it may have been three to six months. I think there is progress in treatment, although it is also very possible that some people may be released who perhaps would require another six to eight weeks of treatment in the hospital, but, you know, such persons may be asking for discharge or such persons are safe -- the hospital had half fulfilled its mission and the hospital can discharge.

Q. Of the 70 people released each month, how many of those people would require supervision, would have to go into some type of living arrangement where they received minimal supervision?

A. This is part of the evaluation of the treating team. I would say, perhaps, anywhere from 40 to 50 per cent of the people may need to go into a supervised setting, especially if they have been abandoned by their families and they do not have a home or a caring structure to return to.

Q. So we have approximately 50 per cent of the 70 people?

A. Correct, that would need ultimate placement other than their own homes, yes.

Q. Are all of these people who require supervision put into a supervised atmosphere?

A. It is hoped that the treating team does make a conscientious effort to place them in a room and board situation where there will be adequate supervision, adequate instruction.

Q. Now, he have a hope. What do we have, in fact?

A. It may happen that from experience a boarding home sponsor does not meet the expectation prior to placement. It may happen that people are requesting discharge and other ongoing, down to such boarding homes where a lack of supervision and lack of instruction exist.

The Placement Problem

Questioned by Commissioner Arthur S. Lane, Mr. Petty told how his psychiatric hospital tries to locate "appropriate" homes for discharged patients. Mr. Petty said "various social workers" discuss such placements and sometimes a boarding home will offer its services. Commission counsel sought more data on placement problems.

EXAMINATION BY MR. SCHIRMER:

Q. Are there sufficient facilities in the community to handle the placement of the patients who you release from the mental hospitals; sufficient, adequate facilities?

A. I am of the opinion that there is not.

Q. Are there not by a large amount, a small amount of an undetermined amount?

A. I think this is one of the problems, one of the crises today in the whole mental health field. Developing resources that are going to be adequate and having the money behind it to create these resources.

Q. Mr. Petty, referring your attention to the chart marked C-88 for identification, is this a reasonable representation of the type of agencies which place people who are discharged from mental hospitals?*

A. Yes, it is.

Q. We might have city welfare placing some of the people?

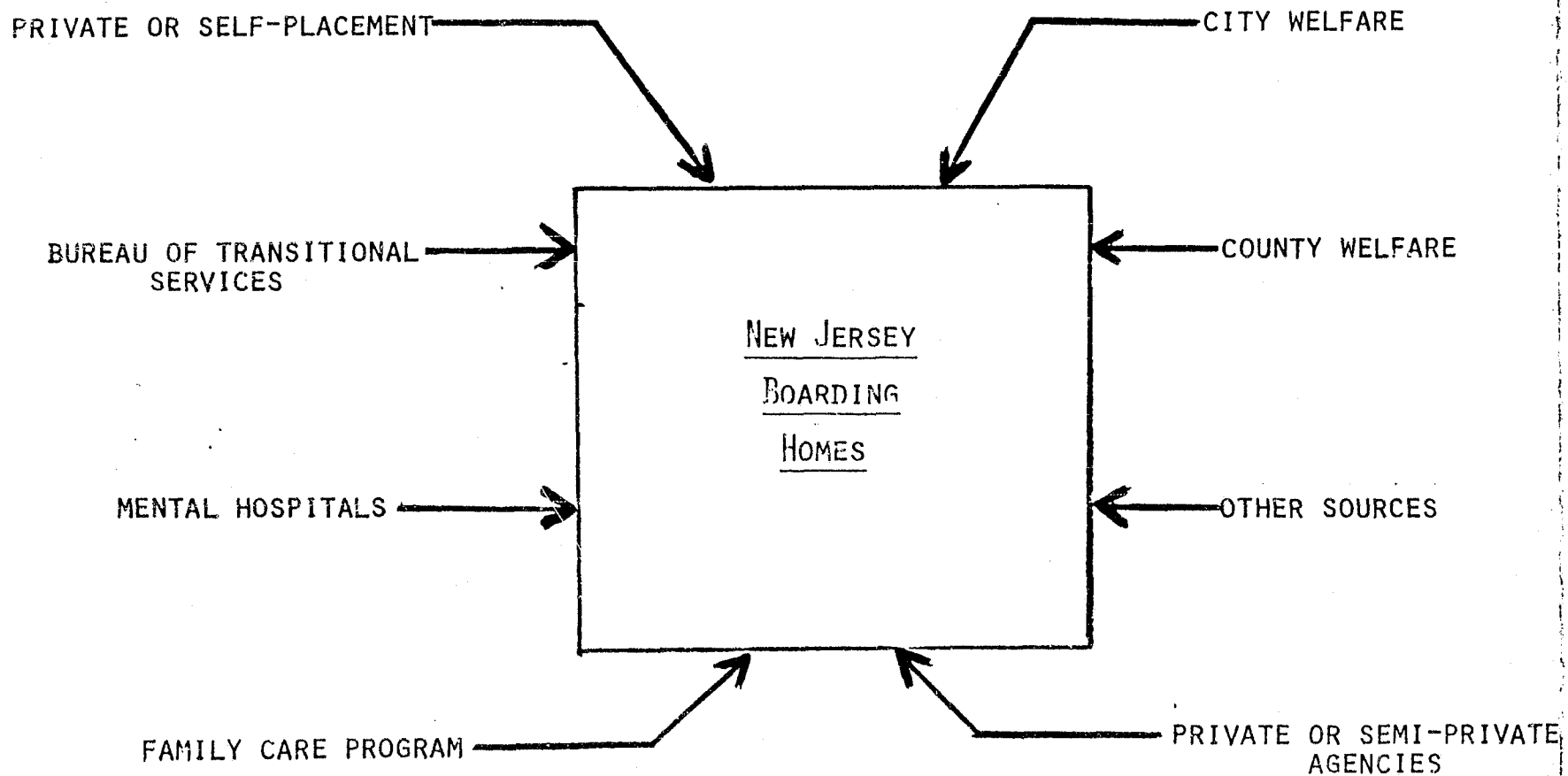
A. Right.

Q. We may have county welfare placing some of the people?

A. Right.

*See chart on P. 131-a.

PLACEMENT OF PATIENTS
DISCHARGED FROM MENTAL HOSPITALS



-131-a-

Q. Other sources, private, they may go privately -- I'm sorry, private or semi-private agencies. What would be some examples of private agencies that place people from the mental hospitals?

A. All right. There are agencies in the community involved with persons who perhaps may not have had a psychiatric hospitalization, but are still, perhaps, in need of assistance.

Mention was made earlier about the geriatric patient who, perhaps, is not a psychiatric hospitalization or persons with physical disabilities. These type of persons, also, if they are homeless, if their family has abandoned them, they, perhaps, would get caught up in the school which would lend them to a boarding home.

Q. Are there any private agencies which are affiliated with Trenton Psychiatric Hospital that place residents, place patients from that hospital in a boarding home or some other type of facility?

A. Okay. There are some community-based agencies existing here in Mercer County who are involved in the placement of patients from Trenton Psychiatric Hospital into boarding homes.

Q. How about the Family Care Program?

A. The Family Care Program at the present represents a small portion of patients who need more time before they can be officially discharged. It's an interim program in which a patient goes into a boarding home, but is yet discharged from the hospital. The hospital continues to pay the room and board to the Family Care sponsor and there is a worker who provides closer supervision.

Q. The mental hospital itself has a staff to replace people which might -- people which might go to the boarding home; is that correct?

A. Yes.

Q. Then we also have the Bureau of Transitional Services?

A. Correct.

Q. Are they a placement agency?

A. Yes, they are a placement agency from the hospital and to boarding homes.

Q. So in summation of this chart, we have a wide variety of agencies which place people in the boarding homes, city welfare, county welfare, other sources, private and semi-private agencies, the Family Care Program, mental hospitals, the Bureau of Transitional Services and selfplacement; is that correct.

A. Correct, right.

The Transitional Bureau

Jeffrey A. Warren, chief of the Bureau of Transitional Services, testified about his bureau's obligations. The bureau has four "area offices" and primarily places indigent discharged patients from the four state psychiatric hospitals. The bureau was created about two years ago by Human Services Commissioner Ann Klein, the witness said, "to address a number of problems that existed in returning people from state hospitals to the community." The bureau was devised to cope with deficiencies in the previous placement system operated by the State Division of Public Welfare. Mr. Warren said: "its responsibilities are basically, one, to place clients into a variety of community living arrangements, two, to link those clients with community services, and three, to see that the clients receive their financial support." Each of the area offices in Paterson, Trenton, Hammonton and at Marlboro State Hospital has a staff that is supposed to include an area supervisor, assistant social work supervisors, social service and clerical personnel as well as a hospital representative. The bureau's local offices process referrals from the state hospitals through various local and county social services and welfare agencies "to make the most suitable placement on behalf of the client." The Commission wanted to know if this was actually being done.

Q. Your program is a new program. It's a response to a problem which you just identified. How well is it working?

A. Thus far I believe it's working relatively well. We have been able to make an impact in a number of areas, one being returning clients to an area that has significance for them which didn't exist before; two, we have been successful in linking clients to community mental health agencies. We have been very much involved in a whole unified services effort that's being developed by the office of community services, mental health and hospitals. We are very much involved in the development of the affiliation agreement process, which is an effort to bring together the aspects of planning -- planning aspects of the state hospitals, the local community agencies, the

Bureau of Transitional Services, in an attempt to develop a comprehensive discharge plan for people being returned to the hospital.

* * * *

Q. Do you also become involved in actually placing a person in a boarding home, licensed boarding home, or whatever?

A. Yes, we do.

* * * *

Q. Are you able to, are you also able to carry out what you believe would be the most appropriate placement?

A. Not always, no.

Q. Why is that so?

A. Because there is a shortage in the state of decent, suitable housing for this client population.

Q. Is it difficult because of the financial -- the finances available to these people to place them in suitable housing? Do they have enough money to go to a licensed boarding home?

A. No, not all people have enough funds to go into suitable housing. We have difficulties with both, financial problems, SSI and municipal welfare. With respect to SSI, it takes approximately six to eight weeks for the client to receive their first check. Sometimes it may, in fact, even take longer, may take many months. If we had secured a bed in a decent facility in that period, we could not, in some cases, place that person because the money was not available to pay that person's rent.

Q. When you place a resident in a boarding home, whether licensed or unlicensed, do you become involved in the rent negotiation process?

A. We have a manual that addresses housing needs. We have begun to put together a list of housing in the state that is known to us with respect to sheltered boarding homes and local licensed facilities, but we do not have the other as you mentioned.

Q. So this information of all the available facilities and all the available services does not exist?

A. That's correct.

* * * *

Q. Dr. Rotov gave us a definition of dumping. Do you have a definition?

A. I would say that a person is dumped into the community, if you want to use that term, when no effort has been made at all to see to it that adequate services are being made for that client's return to the community, whether -- I would say that the person would be dumped into the community if no effort had been made to find financial support for that client or decent housing.

Q. Is this happening today?

A. I would say in some instances it is.

Q. If you were faced with the prospect of releasing somebody into the community where an adequate network was not set up to meet his life-support needs or keeping that person in the state mental hospitals, what would your decision be?

A. If there were no services in the community whatsoever? If we did not find adequate housing for that person, if the person's financial assistance was not in place, then I would opt not to place that person in the community. I would prefer, under most circumstances, to have those three pieces in place.

City Welfare Procedure

Mrs. Leomae Good, director of Trenton City's Division of Welfare, told of the difficulties confronting her agency in placing patients discharged from Trenton Psychiatric Hospital. Commission Counsel Casey suggested that she discuss a hypothetical welfare client placement situation step by step:

Q. Let's assume that you receive a phone call from Trenton Psychiatric Hospital and advise you that I'm a patient there and I'm ready to be discharged. What would you do then?

A. I would tell them to send them in. I'd make an appointment for them to come in and I would also ask that they send an agency referral form with that, and on that form would have some information that we might need to take the application.

Q. *What kind of information?*

A. If it had their name, address, where they were from and how long they had been in the hospital.

Q. *Does it have any indication of the reason for their admission?*

A. No. That wouldn't be on there.

Q. *Would it have any indication as to whether or not the person would require medication once they were discharged?*

A. No. That isn't on there. We request that later.

Q. *Okay. Now, we have made an appointment. It is now date for that appointment. I am in the Trenton City Welfare Office. What happens?*

A. We talk with them, find out if they have a place to live.

Q. *Let us assume I don't have a place to live.*

A. If you don't have a place to live, we -- first we would tell them that we are not supposed to take an application without an address, and if they say, well, we know of no place to go, then we would check around in the community and try to place them.

* * * *

Q. *Or if I'm sitting in your office, you're telling me that you wouldn't have any idea as to whether or not I need supervision?*

A. No, but I would say that we assume, we shouldn't assume, but we do, anyone coming from the state hospital, that they are just being discharged. If the papers say they are to be followed-up in an outpatient clinic, we would feel that they should be in a supervised setting.

Q. So you feel that I would be someone who should be in a supervised setting. Would you initially contact Mrs. Little to see if she had room for you?

A. Yes, I would do that.

Q. And if she had room for me, would you send me there?

A. Yes, I would.

Q. Now, I'm coming to your office. I'm going to be enrolled as a Trenton City Welfare recipient, correct, provided --

A. (The witness nods her head.)

Q. How much money am I going to get a month?

A. You would probably get a hundred-and-seventy-eight dollars because it would be assumed that you're unemployable.

Q. Okay. Would Mrs. Little be willing -- strike that.

How much would Mrs. Little receive, or any other person who requests a payment for room and board? Is that a negotiated sum?

A. Yes, it is.

Q. Okay. So that if Mrs. Little agreed to room and board me for a hundred-fifty dollars a month, what would happen to the other \$28?

A. The balance would be sent to that individual in a separate check.

Q. Suppose she said she needed the entire \$178, would I get any amount of money?

A. No, you would not.

Q. Unless Mrs. Little or someone else rented a room, gave her the money; is that right?

A. Yes.

Q. You have indicated that I would, if Mrs. Little agreed, that I was going to get \$28 a month and she was going to get a hundred-fifty. I'm now living at Mrs. Little's home and it's time for the check to be issued. Where does that hundred-fifty-dollar check go to?

A. It would be issued in the name of Anne Little for John Doe.

Q. Where would my twenty-eight-dollar check go?

A. To John Doe.

Q. At 474 Greenwood Avenue?

A. 474 Greenwood Avenue, yes.

Q. As far as you know Mrs. Little has the only licensed facility in the city of Trenton; is that correct?

A. That's correct.

Q. Now, I'm still someone in need of supervision. Mrs. Little's home is filled. Would you then attempt to place me in one of the other homes you have described?

A. Yes, I would. If they are ready for discharge, I would have no alternative but to try to place them somewhere.

Q. Well, would you tell the person that I was coming from Trenton Psychiatric Hospital?

A. No, I wouldn't.

Q. Why not?

A. Sometimes when we tell people that, they say, "No, I don't want them in my home."

Q. So you're then faced with no place to put the person?

A. Right.

THE CHAIRMAN: What do you eventually do with that person?

THE WITNESS: In what way? Do you mean if I don't find a place?

THE CHAIRMAN: You call and find she does not have a room yet. You have assumed that there's a certain degree of supervision required. What do you do?

THE WITNESS: We have used a couple of other people in the area that we know are at home at all times and they're willing to take a person in and furnish the proper supervision and care for them.

Retroactive Checks

Counsel Casey wanted to know the municipal welfare agency's procedure for processing the client's application for Social Security and SSI benefits, once eligibility is established. Mrs. Good explained how the agency would deduct its costs for supporting the client from any subsequent SSI check that would be issued. She also talked about the "representative payee" problem with respect to such retroactive checks.

Q. Okay. Let's assume, again, that I fit that category. I have made the necessary application for Social Security and SSI. Now, you're going to continue me on city welfare, though, aren't you?

A. You will continue to receive welfare until we receive information that your application has been -- you have been awarded SSI or Social Security.

Q. And a retroactive check will issue?

A. And the letter will so state that will be a retroactive check back to the application date of the application.

Q. Then the Trenton City Welfare makes a deduction from that retroactive check for the monies they have expended pending receipt of the check from the date of approval?

A. Yes. When they sign for -- the application for SSI, they also have to sign a form in our office saying that they have applied and that they are receiving -- they are requesting city welfare. Pending the receipt of that, they are willing to reimburse us for what assistance we grant.

Q. All right. Now, are you ever contacted by Social Security with a request that a representative payee be found for me before they will issue that check?

A. Yes, we are.

Q. How frequently?

A. Occasionally. More times than we like because it's difficult for us to find a payee for the person.

Q. What kind of people do you look for to see if they will be a payee?

A. Either a relative --

Q. I have no relatives.

A. The person in charge of the boarding home.

Q. In order to become representative payee for me?

A. Yes, and some of the recipients will want to use, say, the Volunteers of America.

* * * *

Q. Mrs. Good, do you feel there is a need in this city of Trenton for additional licensed boarding homes?

A. I would say yes.

Q. And why?

A. Because of the number of people that you have to place. The type persons we deal with, so many of them need this.

Q. And there isn't a place to put them, is there?

A. That's right.

EXAMINATION BY THE CHAIRMAN:

Q. Mrs. Good, before we leave, as I understand it, when you received these patients from the Trenton Psychiatric facility, that you're not necessarily told what the diagnosis was that caused them to enter the hospital?

A. No, not necessarily.

Q. And you're not told to what extent their medical problems have been alleviated as a result of the discharge?

A. No.

Q. And you're not given a summary of what life-support needs they may have to have that you are to fill?

A. That's correct, but it's because they know that we know we can get the information at a later date.

Q. But you make the placement before you obtain the information?

A. Yes, we do.

THE TESTIMONY -- Third Day

"Excessive Profiteering"

Before the third day's session began, Chairman Rodriguez interjected another transitional statement in the interest of easier public comprehension of the proceedings. He noted that, until now, the hearings had concentrated on boarding home abuses "ranging from arrogant mistreatment of the more physically and mentally vulnerable residents to the callous misappropriation of their Supplemental Security Income checks and personal funds." The Commission now would emphasize, he said, "excessive profiteering, at the expense of boarders, that marks the activities" of certain operators: The Chairman stated:

The type of profiteering that will be assessed is of a particularly scurrilous nature because much of it is so directly and immediately harmful to the very individuals the boarding home industry is supposed to serve.

Past S.C.I. investigations have exposed similar fiscal irregularities by the private operators of public service programs which subsist on a heavy cash flow of public funds. But the evidence of profiteering in the boarding home industry, as we will show, is even more venal because of its directly harmful impact on a mass of individuals whose physical and mental condition makes them such easy prey. The Commission will demonstrate how much of the enrichment of certain operators is the direct result of their refusal to provide their wards with even the most minimally adequate room and board. For many victims of New Jersey's boarding home system, room and board means degrading conditions in which life is sustained by food that is hardly palatable.

Despite the incredibly chaotic condition of books and records in this industry, the Commission's small staff of Special Agents-Accountants has managed to reconstruct fiscal profiles of certain boarding home operators. This financial evidence will serve as a base for testimony illustrating how a disproportionate amount of the revenues of some facilities is attributal to real estate investments, salaries and other administrative outlays - as well as excessive net profits.

The Court Fight

A highlight of the third day's proceedings not discussed in the opening statement was a court battle between the Commission and a subpoenaed boarding home operator. The litigation, which had been instituted the afternoon of the previous day, raised the question whether the Commission could subject a witness to public interrogation knowing, because of the witness' responses in a prior executive session, that he intended to exercise his Fifth Amendment privilege to remain silent. It was a significant issue from the standpoint of the legislative process as well as the Commission's activities, as was emphasized in subsequent rulings by the judiciary in favor of the S.C.I.

One of the witnesses who had been scheduled to testify on the third hearing day was Alton Thomas Sr., operator of the Chelsea Rest and Rockwell Rest boarding homes in Long Branch. He had utilized the Constitutional provision against self-incrimination in refusing to answer questions at private sessions of the Commission. His counsel, Barry D. Maurer of Newark, had petitioned Superior Court to prevent the Commission from forcing his client to testify in public knowing that he would again plead the Fifth Amendment and might thus be exposed to public scorn.

However, Superior Court Assignment Judge George Y. Schoch, ruling from the bench in Trenton on Tuesday, June 27, 1978, upheld the Commission's position. Judge Schoch declared:

One thing that nobody has mentioned and maybe it is because it's an argument that shouldn't be made, but the purpose of the S.C.I. is to accumulate facts and data and thereafter to make certain recommendations to the Legislature about a possible amendment of existing legislature or passage of future legislation. But the thought that comes to my mind is that legislation, at least in some cases and probably it should be in all cases, represents the desires of the people with respect to control of themselves and their peers and society and by foreclosing the S.C.I. from presenting all of the possible facts to the public, the public itself is deprived of the opportunity on its own to recommend or encourage the Legislature to take some action with respect to the areas that are under investigation by the S.C.I.

Mr. Thomas' appealed immediately from Judge Schoch's oral ruling. However, after another court argument in Newark the next morning, the Commission won an affirmation of Judge Schoch's ruling in Superior Court Appellate Division -- and Mr. Thomas finally took the witness stand later that same day, as scheduled.

Thomas, Accountant Unresponsive

As expected, Mr. Thomas was an unresponsive witness. And joining him in reiterating the Fifth Amendment privilege against self-incrimination that also had been exercised in executive sessions before the Commission was his accountant, Warner Humble, who refused even to say whether he worked for Mr. Thomas.

Key questions that brought no answers from either Mr. Thomas or Mr. Humble at the public session involved the preparation of income tax returns for Amason Roofing Corp. and Rockwell Rest, Inc., -- both of which were Mr. Thomas's companies. These tax returns, although for different corporations, showed identical sums for gross receipts as well as identical "corporate expenses" for berthing a boat at a marina. S.C.I. Counsel Schirmer pressed Mr. Thomas for a public explanation of these identical entries on two different corporate tax returns:

Q. Referring to C-124 for identification, the tax return for the Rockwell Rest, Inc. for the year 1977, isn't it a fact that your gross receipts were \$31,909?

A. I decline to answer the question relying upon my privileges under the constitution of the United States and the State of New Jersey.

Q. Isn't it a fact that the gross receipts for the Amason Roofing, Inc. for the year 1977 were \$31,909?

A. I decline to answer the question relying upon my privileges under the constitution of the United States and the State of New Jersey.

Q. I refer your attention to the final page of this document. I ask you whether the final page of expenses for the Rockwell Rest, Inc. is identical to the final page of the tax return of the Amason Roofing, Inc.?

A. I decline to answer relying upon my privileges under the constitution of the United States and the State of New Jersey.

Q. I refer your attention to Line 26. Was an expense for a boat's berth taken off as an expense for that corporation?

A. I didn't hear that question, Mr. Schirmer.

Q. Referring your attention to Line 26, was an expense in the amount of \$1,162 for a boat berth taken off as an expense for that corporation?

A. Which corporation?

Q. They are identical, so it's either one.

A. Which corporation are you talking about, Mr. Schirmer?

Q. The first one, Amason Roofing, Inc. Line 26, you have an item, boat berth, \$1,162 taken off as an expense for the corporation.

Now, I refer to document 120 for identification, Rockwell Rest, Inc., 1977, the tax return, the final page of that document, Line 26, berth for a boat, \$1,162 and --

MR. MAURER: I object to the counsel's question. As far as I can determine we are now before the State Commission of Investigation and not the Internal Revenue Service body or a federal court involving tax returns, and since this is not an industry which reimburses its providers on the basis of their expenses, I fail to see how -- what this man reports on his federal income tax regarding anything is at all relevant to the nature of the inquiry we have here, particularly when the expense which he is after has nothing to do, apparently, with a nursing -- boarding home.

THE CHAIRMAN: Mr. Maurer, I would suggest, then, sir, if you were to remain around the rest of the afternoon, what this Commission will be attempting to do by establishing certain basic foundations will be spread upon the record.

Mr. Schirmer?

MR. MAURER: We have a question pending, is there not?

MR. SCHIRMER: Yes.

A. I decline to answer the question relying upon my privileges under the constitution of the United States and the State of New Jersey.

Q. Isn't it a fact that the income received by both corporations totalled approximately \$100,000?

A. I decline to answer the question relying upon my privileges under the constitution of the United States and the State of New Jersey.

31 Facilities Probed

Before continuing with Mr. Thomas' testimony and with the testimony of other boarding home operators on the issue of profiteering, it is necessary to introduce pertinent excerpts from the testimony of the Commission's veteran chief accountant, Julius M. Cayson, Jr. He and other S.C.I. Special Agents-Accountants, in preparation for the public hearings and to provide a factual foundation for the Commission's subsequent conclusions and recommendations, examined the books and records of 31 boarding homes or boarding home corporations as well as 14 individual boarding home operators. The 31 facilities ranged from homes with only a few beds to those with more than 160 beds. Although there were exceptions, Mr. Cayson found the records of the larger places "to be of a more auditable nature" than those of smaller homes but that among the smaller homes "we found (a) gross violation of adequate record keeping."

Commission counsel questioned Mr. Cayson at length after interrogating individual operators during the third public hearing day. For the sake of clarity, Mr. Cayson's supplemental testimony will be entered along with that of the witness to whom it applies.

Coincidental to Mr. Cayson's discussion was a summary* of certain financial aspects of selected boarding home operators prepared by S.C.I. accountants which included per diem costs of food per resident boarder as well as per diem net earnings, gross incomes, annual net earnings, and the percentages of gross revenues that such annual earnings represented. This summary showed, for example, that Mr. Thomas' food cost per boarder per day was \$1.68 cents as against his per diem earnings, after deducting all costs, of \$135.09. His annual net earnings amounted to \$49,309, or 47 per cent of gross income of \$105,735.

According to Commission accountants, all of the 31 boarding homes whose records were examined spent less per day per boarder for food than the \$1.94 median cost for New Jersey nursing homes in 1976.

Thomas' Records Were the "Worst"

Mr. Cayson, a CPA, told the Commission the Alton Thomas books and records were in such poor condition that they had to be "reconstructed" in order to establish the full financial

*See Chart, P.145-a.

SELECTED BOARDING HOME OPERATORS

SUMMARY OF EARNINGS

(For Calendar Year 1977 or For Fiscal Year Ending in 1977)

<u>OPERATOR</u>	<u>GROSS INCOME</u>	<u>ANNUAL NET EARNINGS</u>		<u>PERCENTAGE</u>	<u>PER DIEM NET EARNINGS</u>	<u>PER DIEM COST OF FOOD</u>
		<u>SALARY</u>	<u>PROFIT</u>			
Anna Price	\$141,894		\$ 24,327	17%	\$ 66.65	\$ 1.58
*Robert McCray	\$ 94,469	\$ 21,239		22%	\$ 58.18	\$ 1.02
Anne A. Little	\$ 96,304		\$ 33,190	33%	\$ 90.93	\$ 1.78
Helen McKenna	\$175,000		\$ 57,823	33%	\$ 158.42	\$ 1.46
*L & S Pliner	\$640,775	\$107,995	\$ 101,654	34%	\$ 574.38	\$ 0.87
*Thomas Brown	\$ 70,372	\$ 25,875		37%	\$ 70.89	\$ 0.83
Joseph Kube	\$ 94,295		\$ 36,857	39%	\$ 100.98	\$ 1.55
*Alton Thomas	\$105,735	\$ 12,450	\$ 36,859	47%	\$ 135.09	\$ 1.68

Median food cost per day per resident in New Jersey Nursing Homes in 1976

\$ 1.94

*Operation Conducted as Corporation

SELECTED BOARDING HOME OPERATORS

SUMMARY OF EARNINGS

(For Calendar Year 1977 or For Fiscal Year Ending in 1977)

<u>OPERATOR</u>	<u>GROSS INCOME</u>	<u>ANNUAL NET EARNINGS</u>		<u>PERCENTAGE</u>	<u>PER DIEM NET EARNINGS</u>	<u>PER DIEM COST OF FOOD</u>
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*Alton Thomas	\$105,735	\$ 12,450	\$ 36,859	47%	\$ 135.09	\$ 1.68

Median food cost per day per resident in New Jersey Nursing Homes in 1976

\$ 1.94

*Operation Conducted as Corporation

facts of his operation of the Rockwell Rest and Chelsea Rest boarding homes. Mr. Cayson testified:

"I have been in the field of accounting for 27 years and I have seen thousands and thousands of books and records. I am here to state, under oath and publicly, that these records were the worst that I have ever seen any place, any time, any where."

The McKenna Boarding Homes

Mrs. Helen H. McKenna, operator of boarding homes in Rutherford, also exercised her Constitutional right to remain silent during her appearance as a witness. At the outset, however, she did describe the extent of her operations in response to questions by Counsel Neil J. Casey. She said she operated two boarding homes licensed by the State Health Department, at 178 Home Avenue and 46 The Terrace, in Rutherford, with bed capacities of 7 and 12, respectively, and two boarding homes not licensed by the Health Department, at 202 Wood Street and 45 Sylvan Street, with bed capacities of 4 and 8 respectively.

Mrs. McKenna remained responsive as Commission Counsel questioned her financial records, in the form of notes on "pieces of paper," -- until he reached a sheet of paper on which she had listed her entire receipts for last year:

Q. Does that represent the receipts for one entire year, 1977?

A. Yes, that's right.

Q. Do you have a total figure there --

A. That's right.

Q. -- at the bottom? Would you tell us, please, what figure you have written there?

A. Well, it's right here. One-sixty-nine-four-fifty-seven and fifty cents.

Q. Okay. That's \$169,450 -- \$169,457.50 --

A. Um-hum.

Q. -- is that right?

A. That's right.

Q. Does that represent the gross receipts that you took in from your four homes in the year 1977?

A. Yes, that's right.

Q. Thank you. Mrs. McKenna, I'd like you to take a look at Exhibit C-113 for identification, which purports to be a copy of Schedule C from your 1977 income tax return again, for the record, which you previously provided to us, and would you take a look at that and tell me if you recognize it.

At this point, Mrs. McKenna's lawyer, Frank Lucianna of Hackensack, asked for time to consult with his client. He then informed the Commission that he had advised her to refuse to answer the question just put to her on grounds of possible self-incrimination. Chairman Rodriguez, after a discussion with counsel for Mrs. McKenna and the Commission, requested that questioning be resumed:

EXAMINATION BY MR. CASEY:

Q. Mrs. McKenna, isn't it a fact that on your tax return for 1977 you reported gross receipts of \$124,625?

MR. LUCIANNA: I will advise my client under the circumstances, the peculiar circumstances of this situation that she finds herself in, that she not answer on the grounds that it might incriminate her.

Q. Mrs. McKenna, is that your wish, not to answer the question based on the fact that it might tend to incriminate you?

A. Yes.

Q. Thank you. Mrs. McKenna, during the tax year 1977, did you report a net profit of \$6,809?

MR. LUCIANNA: I will advise her, and in accordance with the answer to the last question, namely that she should refuse to answer on the grounds that there is some possibility of self-incrimination, which frankly I don't know at this time, Counsel, because this is an area that I'm not familiar with.

MR. CASEY: All right.

Q. Mrs. McKenna, again, referring to C-113 for identification, on Schedule C-2 which is entitled "Depreciation," did you list on that depreciation schedule the purchase of a boarding house and land for September 8th, 1977, with an allocation of \$20,000 for the land and \$60,000 for the home?

(Discussion held between the witness and her counsel.)

MR. LUCIANNA: I have advised my client the same way. Would you please answer the question --

THE WITNESS: Yes.

MR. LUCIANNA: -- on the grounds that it might incriminate you.

A. I'm advised by counsel that I am not answering it. It might incriminate me.

Q. Mrs. McKenna, is it, in fact, that that home that's listed on there as being purchased in September of 1977 is located at 33 West Passaic Avenue in Rutherford?

MR. LUCIANNA: I'm going to advise my client the same way, Mr. Casey.

Q. And isn't it a fact that that home you purchased on September 8th, 1977, which is located at 33 West Passaic Avenue in Rutherford, is not used as a boarding home?

MR. LUCIANNA: I will advise my client to invoke her privilege.

A. It was used --it's not --

THE CHAIRMAN: Mrs. McKenna, are you invoking the privilege, again, as a result of that question?

(Discussion held between the witness and her counsel.)

THE WITNESS: Yes, sir, I invoke the privilege again.

THE CHAIRMAN: Mrs. McKenna, I believe, then, if it's my understanding, that you will be invoking the privilege to any question that might be addressed to your finances as reflected through your income tax return; is that correct?

Counsel?

MR. LUCIANNA: Mr. Rodriguez, most respectfully, I will advise my client to do exactly that.

I was under the impression, gentlemen, that when we came down here that this would be an inquiry not as far as -- not into her income tax returns, and I don't get any intimation of that from the transcript of the executive session, but into the question of boarding house practices and boarding house facilities in Rutherford where she has and operates her business.

Now, if this is being used as a vehicle to have her answer questions which, of course, can be used against her in reference to her income tax, I object to it most strenuously, Mr. Rodriguez, and, gentlemen, I think that it's beyond the scope of your committee anyway because it's going into the question of income and it's not directly relevant to the question of boarding house practices.

THE CHAIRMAN: Counsellor, how state income has been utilized and federal income has been utilized through the functioning of boarding homes certainly were questions that were explored during the executive session with respect to the financing and finances and receipts.

* * * *

COMMISSIONER KADEN: Mr. Lucianna, we have listened patiently to you repeatedly now. Perhaps you might listen to us.

The question of Mrs. McKenna's income from boarding home operations is clearly, in my judgement, within the scope of this Commission's inquiry and the questions asked her based on that income are clearly appropriate and within the terms of this investigation and she has her constitutional privilege against self-incrimination. She's invoked that, but I hope you understand that privilege belongs to her. The fact that the line of inquiry is something you didn't anticipate, or the line of inquiry, in your opinion, as opposed to this Commission's, is something that you don't approve of, is not a basis for advising or for invoking the privilege against self-incrimination. That privilege exists and

may be invoked by her if she honestly believes that her answers may tend to incriminate her, and since she had invoked that privilege, we are going to suspend the questions at this point.

MR. LUCIANNA: All right. I put my reasons on the record, Mr. Chairman.

THE CHAIRMAN: All right. You're excused, Mrs. McKenna.

MR. LUCIANNA: All right. Let's go.

* * * *

The McKenna Chart*

During Accountant Cayson's testimony on the charting of Mrs. McKenna's financial records, he disclosed that out of about 500 checks received by Mrs. McKenna, she had deposited only one. The others had been cashed by her at various places in the area. Therefore, he testified, "we only got the benefit of what was put into the bank in order to cover what may be called ordinary and necessary expenditures." This had an impact on the Commission's effort to clarify Mrs. McKenna's finances, as Mr. Cayson explained:

The staff, the legal staff, the accounting staff, confronted Mrs. McKenna with that and we got, in effect, an admission that her ommitted gross receipts were \$51,014 in the year 1977; \$51,014 in 1977 which emanated from checks from boarding home residents.

Q. Would you continue with the chart, please?

A. I'll be glad to. The real estate there is \$39,503 or 23 per cent; food was \$26,147 of which twenty-thousand was expended in cash; resident care was 7 per cent or thirteen-thousand-o-five-five; resident supervision was 22 per cent or \$39,111.

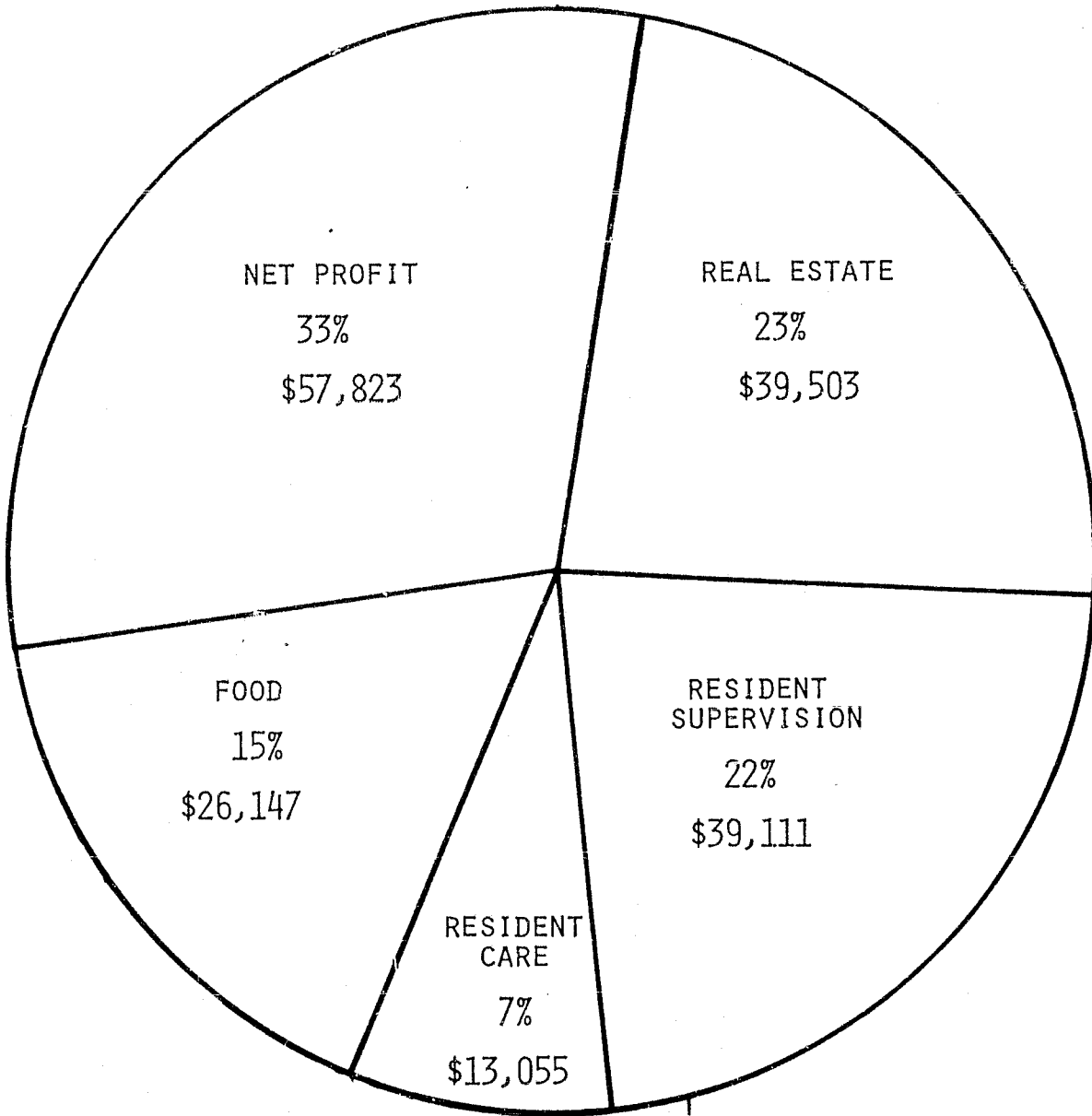
I'd like to make a comment about the \$39,111. According to 941s filed by Mrs. McKenna, this represents a payroll for six or seven people. Six or seven people got \$39,111 for resident supervision at 22 per

*See Chart P. 150-a.

HELEN McKENNA

BOARDING HOME

1977



RECEIPTS - \$175,000

SOURCE: ANALYSIS OF AVAILABLE RECORDS

CONTINUED

2 OF 4

cent. Therefore if we subtract all those particular expenses with the new revised net receipts of \$175,613, we arrive at a profit of \$57,823 or 33 per cent.

Q. Finally, Mr. Cayson, could you tell us, please, what the per diem figure for food was that you calculated?

A. For Mrs. McKenna, assuming that we accept the food of twenty-six-thousand-one-four seven, the per diem cost of food is a dollar-forty-six.

The Price Boarding Homes' Chart*

Mrs. Anna L. Price, who operated Pineland Rest Home in Freehold and A. & C. Rest Home in Englishtown, testified that she paid for two cars, a Cadillac and a station wagon, out of corporate funds because she used them in her business. She also testified that she kept records of the payments of personal funds of \$25 a month each to her boarders in 1978 but kept no records of such payments in prior years. Her testimony in this regard illustrated a major deficiency in regulatory controls over the boarding home industry:

THE WITNESS: Sir, when I begin, to my ability, I gave residents \$20 a month. Then we were giving \$25 when they got three-o-eight. According to the blue manual of the state, there's no requirement that we have to keep a record of what we gave them. If it had been so, you would have a record from the time I went in business, but it's not a requirement by the state and I am complying with the state.

THE CHAIRMAN: Now, will you answer the question? Do you have any receipts from your boarders in 1976 to indicate that they received their personal funds?

THE WITNESS: I do not.

THE CHAIRMAN: Thank you.

Q. Would you have the same answer for 1977?

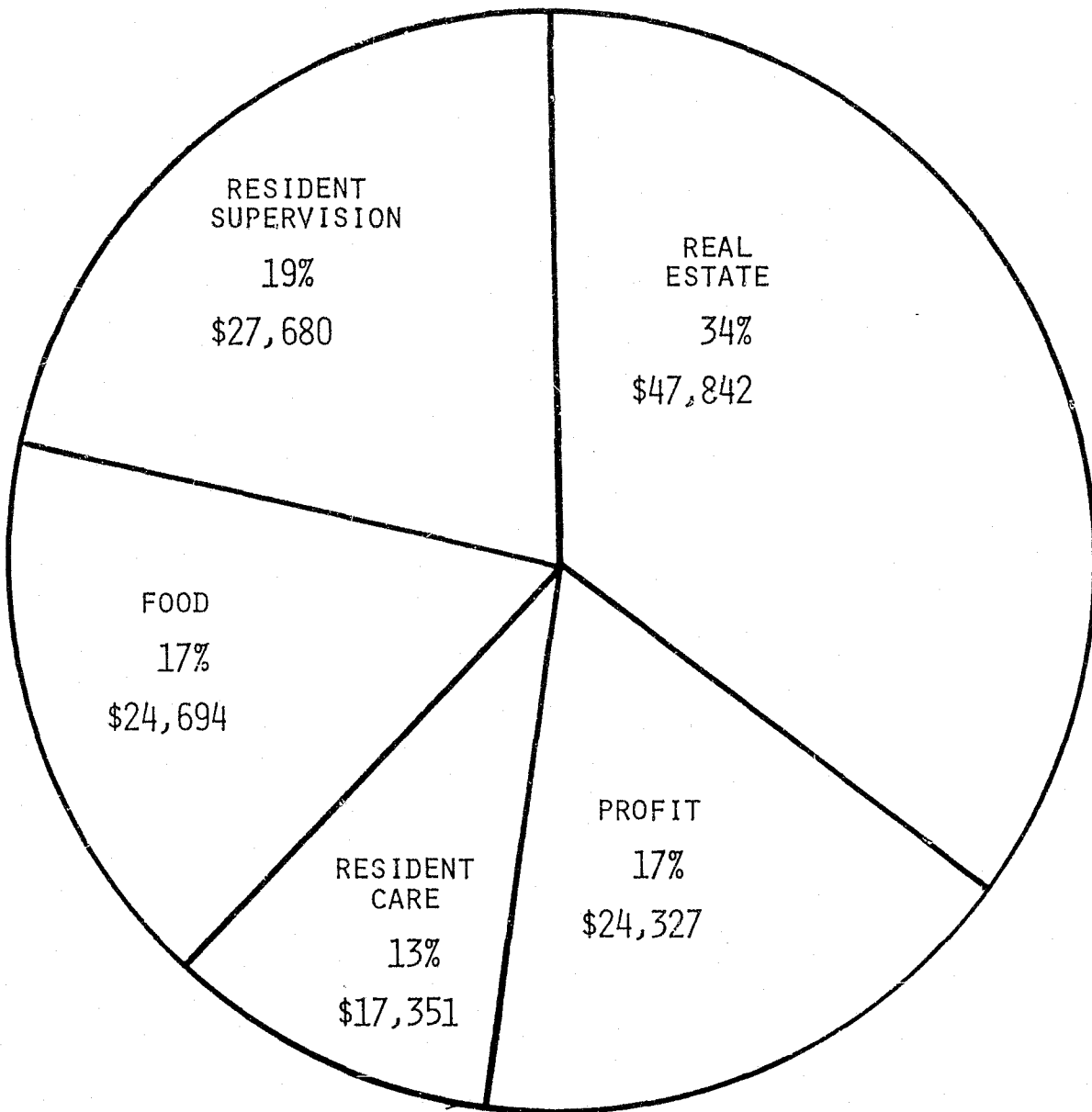
A. Yes, I do.

*See Chart, P.151-a.

ANNA PRICE

D/B/A A&C AND PINELAND REST HOME

1977



GROSS RECEIPTS - \$141,894

SOURCE: ACCOUNTANT'S WORKPAPERS - 1977

Eating On 83 Cents a Day

Commission Counsel Schirmer calculated that George H. Brown, owner of Brownstone Manor Rest Home, Inc., of Long Branch, fed his 19 or 20 boarders at the rate of 83 cents per day per person, a cost estimate Mr. Brown did not deny. While an expert witness* later would criticize his menus, Mr. Brown elaborated on the details of the food service he provided for 83 cents a day. His public hearing testimony:

Q. Now, Mr. Brown, I ask you whether you recognize what has been marked for identification C-112, which is a menu which you provided the State Commission of Investigation, a series of four menus, and I ask you whether you can identify it?

A. Yes.

Q. Would you just run through what you might provide at a particular meal?

A. They have here grapefruit, eggs, bacon, toast, hot chocolate and milk. That's the breakfast menu.

Q. What do they have for lunch?

A. They have salami sandwiches, vegetable soups, grapefruit sections and toast.

Q. How about for dinner?

A. Baked chicken, gravy, rice, peas, bread, butter and jello.

Q. If you turn that page over, go to the second date, give me the listing of a breakfast, lunch and supper.

A. Any particular day?

Q. No, you pick the day.

A. It doesn't matter. Pancakes, sausage, orange juice and hot chocolate. Noon, beef casserole, bread, butter, plums, tea. Evening meal, baked ham, boiled cabbage, baked potato, bread, butter, applesauce and tea.

*Testified Catherine M. Gill, registered dietician: "I don't feel it would be possible to provide a nutritionally adequate balanced diet in the right quantities for 83 cents a day." See testimony of Miss Gill, P.159.

Q. Mr. Brown, where do you make your purchases?

A. Foodtown, National Produce, Pathway -- Pathmark, rather, other stores.

Q. Pathmark is a retail market?

A. Pathmark.

Q. Foodtown is retail?

A. Pathmark, Foodtown, those type of things.

Q. Did you actually provide those meals for 83 cents a day?

A. I'd invite you, any day you would like, to come out, sir.

THE CHAIRMAN: The question, Mr. Brown, is did you provide the meals that you indicate?

A. These are the meals we actually serve and the state inspectors are coming out at noon-time. This is basically what we feed, sir.

* * * *

The Brownstone Manor Chart*

Commission Accountant Cayson testified as follows on the financial operation of Brownstone Manor, Inc."

A. In other words, we have the solely-owned corporation in which the operator is getting a salary of 37 per cent of the gross receipts. Now, due to the fact he controls all the capital stock and he is, in fact, the corporation, he can take as much salary as he possibly can get out of the business without any impunity. There's nothing illegal about this, I'm trying to say, but the receipts emanated from a boarding home facility and the receipts were due to -- or rather emanate from the care of patients of \$70,372, and Mr. Brown availed himself of \$25,875 of that for administrator's operator's salary.

Q. Is there any indication of compensation to relatives?

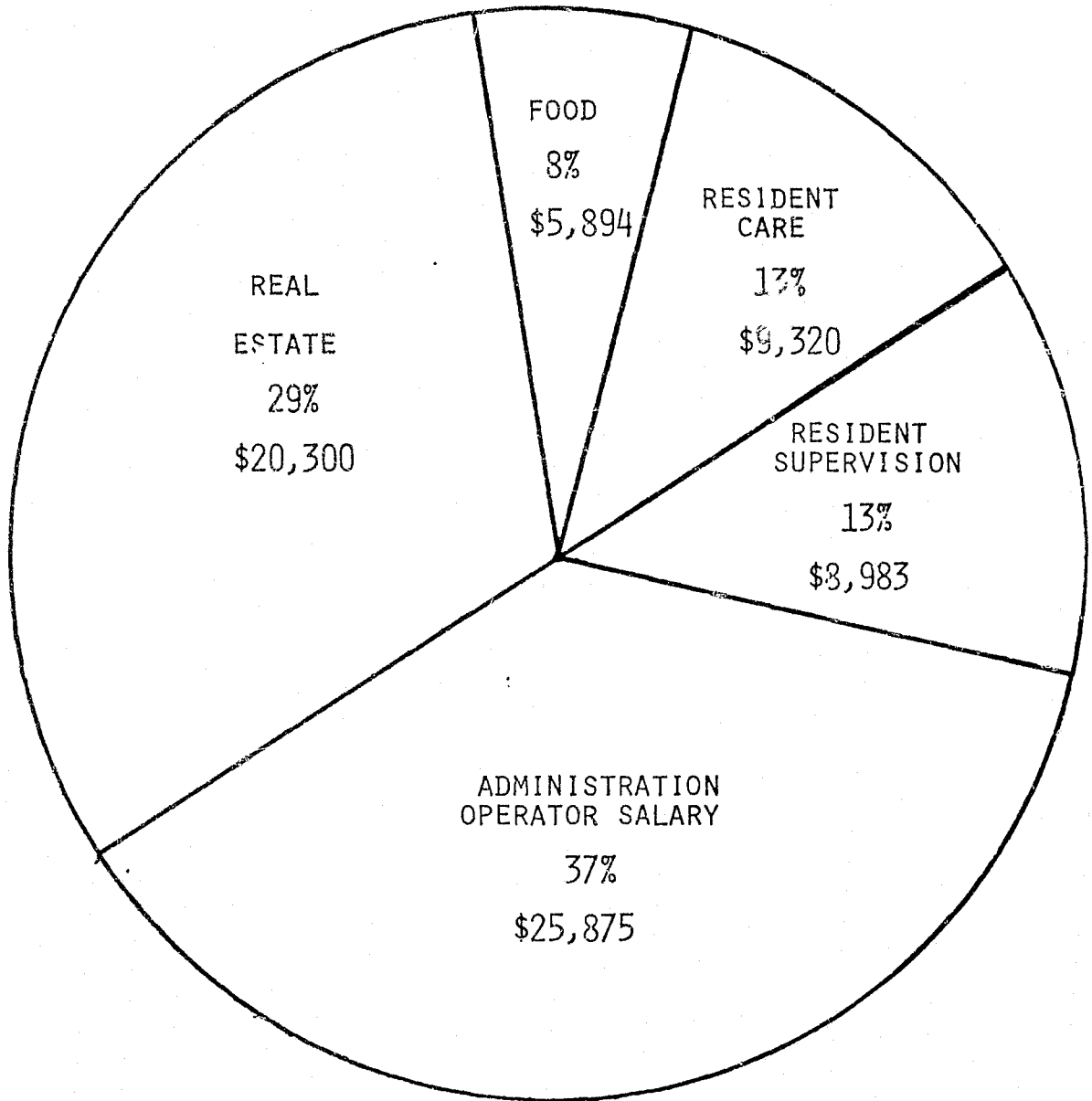
A. All right. Not in this corporation, sir. I'm sorry. I passed over the food. The food was 8 per cent of gross receipts or \$5,894.

*See Chart, P. 153-a.

GEORGE H. BROWN

D/B/A - BROWNSTONE MANOR INC.

F/Y/E 5/31/78



GROSS RECEIPTS - \$70,372

SOURCE: OPERATOR'S BOOKS AND RECORDS

Now, we did this particular computation this morning, and in that particular regard I must say that Mr. Brown is the low man on the totem pole of everybody examined and we came up with a per diem cost of 83 cents per day. This is vis-a-vis Mr. Kube of a dollar-fifty-five, Mrs. Welch of a dollar-fifty-eight, Mrs. Little of a dollar-seventy-eight and Mrs. -- we haven't gotten to that. Vis-a-vis all the other people we examined, he was the low man on the totem pole.

7 Relatives on Payroll

Due to a scheduling mixup, Robert McCray, operator of James Homes, Inc., a boarding home corporation in Asbury Park, had to postpone his appearance at Wednesday's hearing session. However, he testified the following morning on the operation of his facilities* -- one licensed by the Health Department and two that were not in the department's jurisdiction. The discussion was highlighted by the revelation that he had seven relatives on his boarding home payroll. For reasons of clarity, Mr. McCray's Thursday testimony is incorporated here with Wednesday's agenda since it covers the same general ground of testimony by other boarding home operators.

Questioned by Commission Counsel Casey, Mr. McCray conceded that his boarding home payroll consisted of his wife, three sons, two daughters and his mother-in-law. He also admitted that these relatives were his only employees. As illustrated by the McCray chart, the McCray family was the beneficiary of more than 60 per cent of the corporation's total boarding home expenditures.

Also, based on Mr. McCray's federal income tax records for food expenditures and his register of resident boarders, the Commission calculated that his raw food costs amounted to \$1.02 a day per boarder. Later testimony by an expert witness would raise questions about the ability to properly feed boarders on such an outlay** but Mr. McCray testified that by purchasing food "where I can get the best buy," including the Fort Monmouth Commissary, he provided ample meals. His testimony on this:

Q. What kind of meals do you serve at the James House?

A. What kind of meals to I serve?

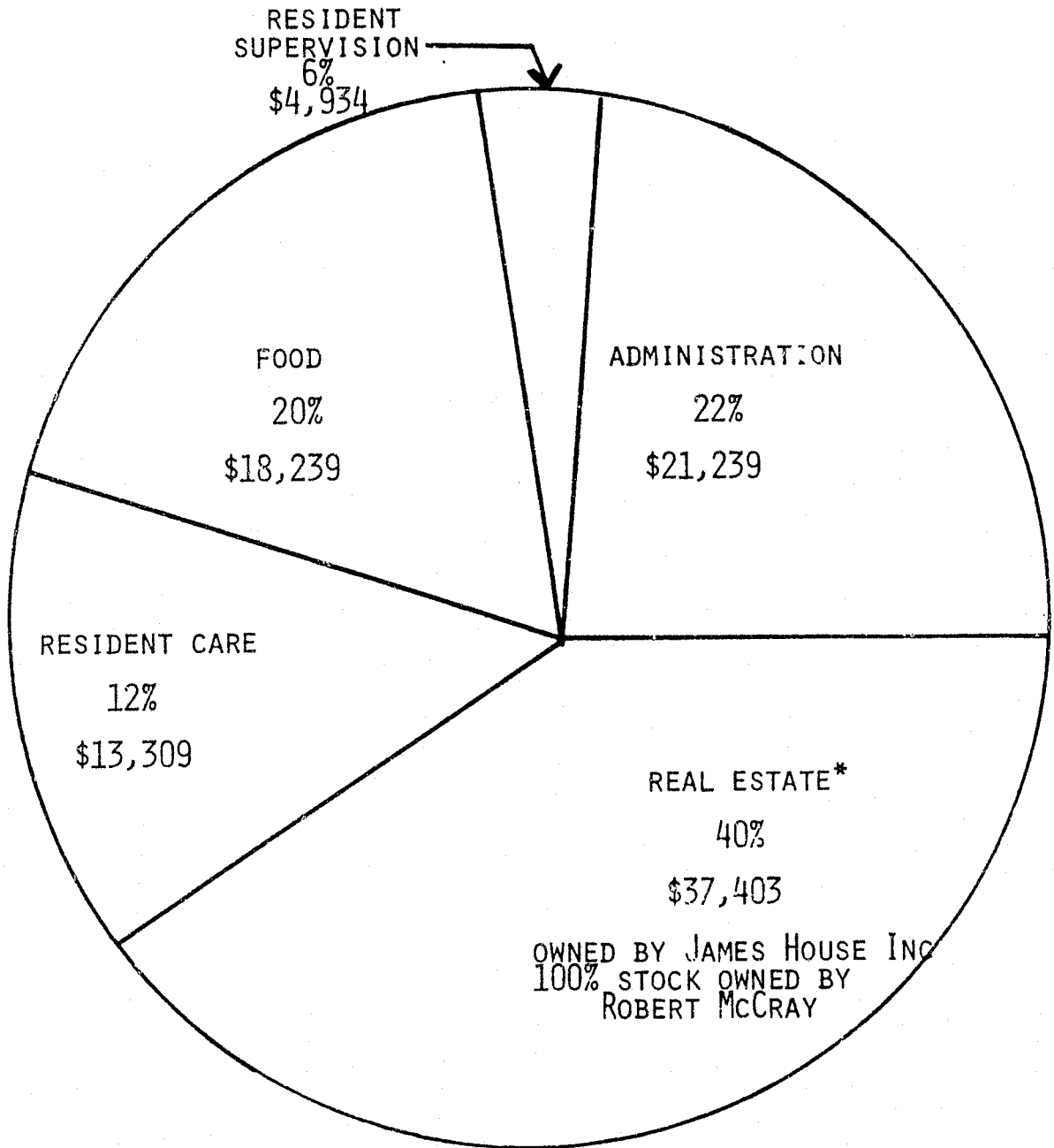
*See Chart, P. 154-a.

**See testimony of Catherine M. Gill P.159.

ROBERT McCRAY

D/B/A JAMES HOUSE, INC.

F/Y/E 1/31/78



TOTAL EXPENSES - \$95,124

SOURCE: RETAINED COPY OF CORPORATE FEDERAL TAX RETURN

* 7 RELATIVES IN 4 FACILITIES

Q. Yes.

A. Normal meals. You have a copy of my menu, I think. I would have to refer to that if you want to know the types of food.

Q. Right. Take a look at Exhibit C-107. Is that a copy of a menu that you prepared or someone in the James House?

A. This is a copy of one of my menus; yes.

Q. May I see that, sir? Why don't you just pick any day you like and indicate for us what meals would have been served on that day starting with breakfast.

A. Take Sunday.

Q. Fine.

A. Grapefruit, juice, assorted dry cereal, doughnuts, coffee, tea or milk.

For lunch one-half chicken fricassee, bread, margarine, banana salad, coffee, tea and milk.

Dinner; salami sandwich, corn, chowder, mustard, mayonnaise, pineapple, coffee, tea, and milk.

Q. Is this menu a fair representation of the meals that you usually serve at the James House throughout the year?

A. Yes.

Thomas' Rotten Liverwurst

Arthur J. Verpent is principal sanitarian for the Division of Consumer Services in the State Health Department. His job requires that he inspect health care facilities, including boarding homes. As a result of a complaint, he inspected Rockwell Rest, the boarding home owned by Alton Thomas Sr. in Long Branch, on April 21, 1978. The last previous inspection of this facility had taken place in December, 1977, Mr. Verpent told the Commission. He further testified that during this April 21 inspection, "the major violation that I did find was adulterated food products which were on the premises and which were unfit for human consumption."

Commission Counsel Robert M. Tosti asked for details:

Q. As to the adulterated food, just what type of food was it?

A. It was liverwurst which was stored in a freezer of Mr. Thomas or the Rockwell Rest, whichever you want to refer to it as.

Q. In what quantity?

A. It was approximately 189 pounds.

Q. And what was the condition of that liverwurst?

A. It contained a green mold, rodent feces, some foreign materials which were later analyzed by our laboratory and found to be human hair and lice.

Q. I show you what has been marked C-139 for identification, which purports to be copies of three records of food analysis prepared by the New Jersey Department of Health, and I ask you if you can identify these.

A. Yes. These were the reports sent out by the Department of Health Laboratories to my office after my delivering of this liverwurst product.

Q. Mr. Verpent, I show you what has been marked C-140 for identification, which purports to be a copy of a report dated May 1st, 1978 describing the destruction of 189.5 pounds of adulterated liverwurst, and ask you if you can identify it?

A. Yes. I wrote this report myself.

Q. What action was taken with regard to that food?

A. After the laboratory results were obtained, I contacted Mr. Thomas and requested that he voluntarily destroy the food because it was unfit to be consumed, and he so did.

Q. And did you witness that destruction?

A. Yes, I did.

Q. How was it destroyed?

A. The product coverings were removed and the product was denatured with ammonia.

COMMISSIONER LANE: On that report that you just referred to, that is your report of what you found?

THE WITNESS: This is my report of the day I went and witnessed the voluntary destruction of the meat.

This other report is the inspection report conducted the day I found the adulterated products.

COMMISSIONER LANE: You read what you consider the pertinent part of that report.

THE WITNESS: All right. He had dishes, pots, pans, other food contact surfaces which weren't being properly cleaned and sanitized.

He had numerous pots which had been cleaned most likely with Brillo pads and contained metal particles in or adhering to the metal surfaces. These were pots which were stored to be used.

Frozen foods weren't completely wrapped so as to prevent deterioration of the product due to freezer burn.

"His Record Has Been Poor"

Although Mr. Thomas' facility had not been inspected for four months prior to Mr. Verpent's visit of April 21, he had a history of inspection problems dating back to 1973. Counsel Tosti asked Mr. Verpent for his recollections of past inspection reports:

Q. Have sanitation problems previously been encountered with Mr. Thomas'?

A. Yes, they have.

Q. I show you what has been previously marked C-141 for identification, which purports to be a compilation of sanitary inspection reports from the Department of Health going back to 1975, dated May 2nd, 1978, and I ask you if you can identify this?

A. Yes, I can. This document was prepared by Mr. Thomas Sikorski from my department.

Q. And what does that document reveal?

A. It reveals the past inspectional history of Mr. Thomas's establishment beginning at 4/28/75.

Q. What were the results of the inspection listed on that document?

A. The results were that Mr. Thomas had received eight conditional ratings. One unsatisfactory rating resulting in a temporary closure and six satisfactory ratings between the period of 4/28/75 and 4/21/78.

Q. You stated that he received eight conditional satisfactory inspections?

A. Correct.

Q. Excuse me. I show you a series of exhibits previously marked as C-143, C-144, C-145, which purport to be copies of sanitary inspection reports dated November 26, 1973, consisting of six pages; September, 19 -- September 25, 1974, consisting of five pages; June 15th, 1976, consisting of five pages; and January 7, 1977, consisting of six pages respectfully -- respectfully, and ask if you can identify them.

A. They are copies of inspection reports conducted by various members of my department, two of which I myself conducted.

Q. With respect to C-142 and C-143, do those reports detail sanitary problems at Rockwell Rest?

A. Yes. By looking at the rating, they definitely do.

Q. In what respects?

A. I would have to read through it. However, they are rated conditional, which would mean that there is certain things that could present an imminent public health hazard there. There is not one presently, however. There are some things that could lead to someone becoming ill.

Q. We can move on to C-144 and C-145, and I ask you if spoiled food was encountered on those inspection reports?

A. Yes, there was.

Q. What was contained in those reports?
What is contained in those reports?

A. C-144 contains a voluntary destruction of canned green beans which Mr. Thomas had on premises at that time, approximately 19 pounds. The cans were swollen, which shows some sort of a deterioration inside, whether it be bacteriological or a gas formation, we didn't know.

Q. But these cans in that condition were --

A. Unfit to be consumed by any humans or animals.

Q. And in the other report, Mr. Verpent?

A. The other report, C-145, there was a destruction of peppers. There were raw produce, approximately five pounds which were moldy.

COMMISSIONER LANE: What's the date? What date?

THE WITNESS: Date? 1/7/77.

A. (Continuing) And the product, as I stated, was raw peppers, approximately five pounds which were moldy and rotten.

Q. From the records available to consumer health services, what has the Rockwell Rest's record been over the last five years?

A. His record has been poor.

Q. How did the sanitation record of Rockwell Rest stand with regard to other similar boarding homes?

A. It's below average.

Shortchange on Diets?

A highly qualified witness, Catherine M. Gill, supervisor of health care facilities for the State Health Department, sharply criticized the nutritional composition of menus that boarding home operators claimed they served their clients. She also questioned the ability of some operators to actually provide the food they said they gave to boarders on the basis of the meager raw food expenditures indicated by S.C.I. audits of boarding home records.

Miss Gill, a registered dietician with the American Dietetic Association, who has also been president and community nutrition chairman of the Central District of the New Jersey Dietetic Association, is specifically trained to evaluate the nutritional adequacies or deficiencies of meal plans. This analytical task was her duty for almost five years as the nutritional consultant for state health care survey teams.

Commission Counsel Tosti asked for her comments on the nutritional merits of the meal plans of various boarding home operators, the relationship of such indicated food servings to the raw food costs of them as established by S.C.I. accountants, and the indicated ability of the operators to actually implement the menus they claimed were being followed:

Q. I show you what has previously been marked C-147 for identification, which purports to be a nutritional evaluation chart of a meal plan for the James House* and ask you if you recognize this?

A. Yes, I do.

Q. Did you prepare this analysis upon the request of the S.C.I.?

A. Yes.

Q. Could you detail your conclusions concerning the nutritional adequacy of this meal plan?

A. This is the evaluation of a one week menu from the facility that was given to me.

I looked first at the protein content of the menu and I based it on the five ounces that are required by the licensing manual for boarding homes presently.

Four of the days evaluated were adequate in protein content; two of the days were deficient. I looked at the Vitamin C content of the menu. They're required to have one source of Vitamin C each day in the menu. Four days were deficient Vitamin C.

THE CHAIRMAN: Deficient?

THE WITNESS: Yes, deficient.

A. (Continuing) I looked at the menu as far as Vitamin A content and there were no Vitamin A sources included in this week's menu at all. I looked at the total number of servings of fruits and vegetables and found five days out of the week that were deficient in the number of servings of fruit and vegetables included in the menu. I looked at the milk content. They are required to serve two cups of milk a day. I was unable to evaluate this because there were no portions included on the menu. According to the menu, they served coffee with milk, tea with milk. As long as the milk item came to two cups per day, that would be adequate. I looked at the number of servings of bread and cereals. That was adequate; and the number of servings of butter or margarine, and that was adequate.

*Operated by Robert McGray, whose raw food costs were calculated by the Commission at \$1.02 per day per boarder. See P. 160-a.

I also had to make some assumptions in evaluating the menu because there were no portion sizes included as to how much they served. I based my evaluation on the assumption that the servings of fruits and vegetables were four-ounce servings or half-cup servings, and I based my assumption on the meat content. For some of the food it was hard to evaluate, and an example would be one day when they served ham steaks was the meat for one dinner meat. They gave the number of pounds included and I had just based my evaluation and assumption that it would be half bone, half protein. Depending upon how the meat was cut, it could be a larger percentage of bone, less meat and a larger percentage of meat, less bone.

Another example was American chop suey that was on the menu one day. I assume half the quantity given was protein and that there was three ounces per serving included. Many of the protein sources included on the menu were items that were high in sodium or high in fat content, several were prepared meats that could have contained more filler than protein and it would be hard, without knowing the source of the food, to know exactly how much protein was included.

Q. I show you what has been previously admitted as C-112 for identification and direct your attention to the first page of that exhibit, which purports to be a menu plan for Brownstone Manor operated by Mr. George H. Brown, as a licensed boarding home, and ask if you can recognize that?*

A. Yes, I do.

Q. Would you detail your findings to the Commission, please?

A. I made the same evaluation of this menu as I did of the one previously discussed.

I looked at protein sources and determined adequacy if there were five ounces of protein included for the day. I found two days of this week in which the protein content of the menu was deficient. I looked

*Mr. Brown's raw food costs were calculated by Commission accountants to be 83 cents per day per boarder.

at Vitamin C sources and there were three days when the menu was deficient in Vitamin C. I looked at the number of servings of fruits and vegetables for the day and there were three days that were short in the number of servings of fruits and vegetables included in the menu. I looked at the milk served according to the menu and for judging the milk content in the menu, I made the assumption that hot chocolate as listed in the menu each morning was made with milk, and based on this assumption, the menu was short in milk each day by either a cup or half a cup. The number of servings of breads and cereals were adequate and the number of servings of butter or margarine were adequate, according to the menu.

Again, many of the protein sources that were used were items that were high in sodium or high in fat content. There are many prepared meats that could have been part filler rather than all protein, but I made my assumptions based on, or my evaluations, based on the assumption that it was all protein content.

Nursing Home Food Costs Higher

Miss Gill testified that the raw food costs of New Jersey's nursing homes were higher than those of boarding homes investigated by the S.C.I., even though the nursing homes with their larger clientele concentrated on bulk and wholesale buying.

The raw food costs of all of the boarding homes in the Commission's inquiry were below the 1976 median raw food costs of the nursing homes, which Miss Gill testified amounted to \$1.94 per day per patient.

Counsel Tosti asked the witness to relate her knowledge of nursing home food costs to that established by the Commission for certain boarding homes:

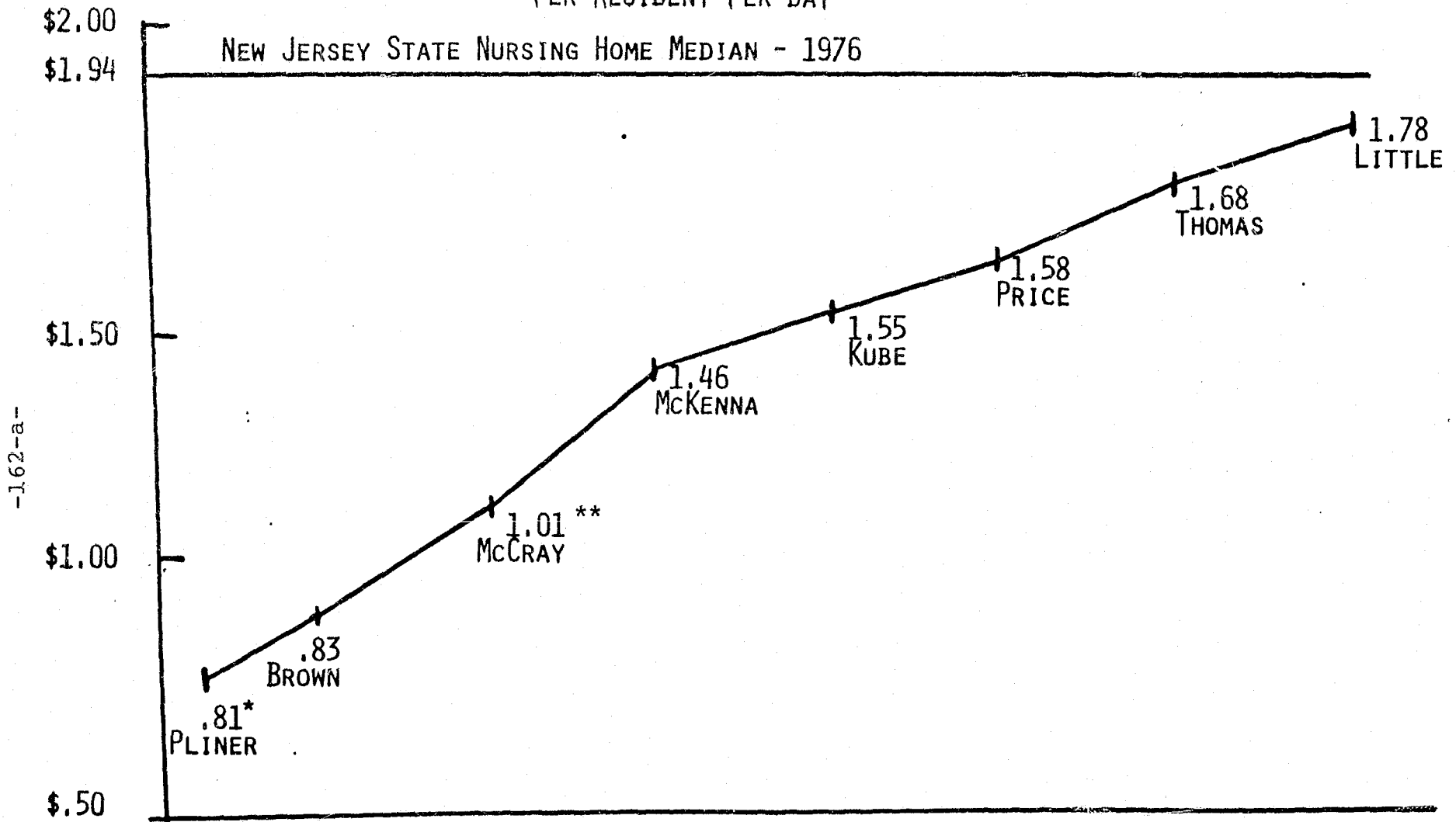
Q. I show you what has previously been marked C-137 for identification, which is a chart prepared by an accountant at the State Commission of Investigation representing food costs at selected boarding homes and ask if you would familiarize yourself with it for a moment.*

*See Chart P. 162-a.

RAW FOOD COSTS
OF SELECTED BOARDING HOME OPERATIONS
1977

PER RESIDENT PER DAY

NEW JERSEY STATE NURSING HOME MEDIAN - 1976



*Later adjusted upward to .87 based on actual rather than estimated residency.

**Later calculations raised this \$1.02

I direct your attention to a point on the chart at the lower left representing raw food costs for boarding home operator Brown of 83 cents per resident per day. Based on your training and experience and your analysis of available measures, comparative measures, is it your opinion that it is possible to provide a nutritionally adequate balanced diet for 83 cents a day?

A. I don't feel it would be possible to provide a nutritionally adequate balanced diet in the right quantities for 83 cents per day.

Q. How did you reach that conclusion?

A. Based on comparisons with nursing homes whose operation I'm familiar with. The nursing homes buy, as I said before, on a wholesale basis in larger quantities than I believe the average boarding home would. They generally have a trained person in charge of the dietary department. They use fairly strict control in the portioning of food items. They use standardized recipes that are based on the exact number of portions they need to serve so that they eliminate waste and they have a knowledge of preparation techniques that also tends to eliminate overproduction and waste and their figures come out much higher than 83 cents a day.

Q. I direct your attention, now, to a point on the chart representing raw food costs for boarding home operator Robert McCray of \$1.01 per resident per day. Based on your training and experience and other comparative measures available to you, is it your opinion that it is possible to provide a nutritionally adequate balanced diet for a dollar-one per day?

A. I don't think it would be possible to provide the diet as adequately, nutritiously adequate as required based upon what I know from nursing homes.

Q. Would you regard a home such as the lower two homes on that chart as warranting of an investigation regarding the nutritional adequacy of its food services?

A. Based on those cost figures and based on the menu for the one that I was given to evaluate, I would be inclined to believe that they do

not serve according to the menu as printed and that it would be necessary to see the actual meal serviced and to find out what their sources of foods are in order to evaluate it thoroughly. I don't think they could serve it nutritiously and adequately for that amount.

Q. You will note there are five other amounts plotted per day on that chart. Could you evaluate the potential of these amounts for providing nutritiously adequate and balanced meal plans.

You may group them in convenient groups if you feel that's necessary.

A. I would say that the figures of a dollar-sixty-eight, dollar-seventy-eight, for those figures it probably would be possible to serve a nutritiously adequate diet as required. The three center figures of a dollar-forty-six, dollar-fifty-five and dollar-fifty-eight, I think it would be possible to do it, but it would have to be done by somebody who is very skilled in purchasing and in the preparation techniques to avoid waste and control how the foods are used or prepared in order to meet the standards.

Q. I show you what has been marked C-150 for identification, a document prepared by the New Jersey Department of Human Services, setting forth raw food costs for the period July 1, 1977 to July 31, 1977 for the Warren Residential Group Center, Oxford, New Jersey, and I ask if you can identify this document.

A. Yes, I can identify this.

Q. And what was the average daily cost per person for food?

A. The average daily cost was \$1.72.

Q. And is there anything in particular which would distinguish this raw food cost figure from the food budget of a typical licensed boarding home?

A. Yes. This particular state institution has access to federal government surplus food items which they purchase at 5 per cent of the costs set by the U.S.D.A., so this is a substantial savings over what they would have to pay for these if they bought them from, like, a wholesaler or a retailer.

They also have access to group buying through the Department of Institutions & Agencies. The Department buys many of their food items on a bid basis in very large quantities so that they get a lower price than someone in another situation would have access to.

Q. Without these two factors, would the figure in your opinion, then, be higher than a dollar-seventy-two?

A. Yes, it would.

Q. Does the current manual of standards for the Department of Health require inspecting to determine whether a boarding home for sheltered care is providing a nutritiously adequate daily diet?

A. Yes, it does.

Q. Are menu plans required to be prepared in advance and required to be maintained on the premises for inspection?

A. Yes, it does.

Q. Would the raw food cost depicted on the chart C-137 suggest to you that a more vigilant program of dietary inspection is needed in the boarding home for sheltered care program?

A. It would, yes, for the lower numbers on the chart. I think it would be essential to know where they purchased their foods and how they prepared them and what quantities they served.

THE TESTIMONY -- Fourth Day

SSI Abuses, Mismanagement

The first portion of this day of testimony was scheduled to demonstrate abuses and mismanagement in the processing of Supplemental Security Income (SSI) checks to thousands of elderly, disabled clients of the boarding home industry. The latter half of the session was opened to "the other side of the story" by state and federal officials whose duties required them to supervise, monitor or utilize administrative programs directly affecting boarding home operators and residents. The discussion illustrated the Commission's primary concern for those boarders whose frailties made them beneficiaries of SSI as well as victims of its subversion.

Commission Chairman Rodriguez read an opening statement explaining the path the public hearings would now take:

This fourth day of testimony in the Commission's public hearing dissection of the boarding home dilemma will be directed at one of the basic causes of the abuses we have emphasized.

A key factor in the problems that afflict this industry, and its physically fragile clients, is the governmental system that has been devised to provide some form of "life support" for the aged, blind and disabled but which, instead, has victimized many of its beneficiaries.

I am referring to the Supplemental Security Income or SSI program, an essential device for sustaining the unfortunate individuals who become eligible for it -- but which, in practice, has produced much administrative chaos. The fact that the State of New Jersey, in its reliance upon an agreement with the Federal government, has yielded any auditing responsibility has compounded the effect of this chaos. Actually, the administration of Supplemental Security Income has become a fragmented government management structure that finds the Federal Social Security Administration and State and local agencies on a collision course even though seeking the same goals.

The testimony will describe how the patients of mental hospitals, under the impetus of a national trend toward "deinstitutionalization," most often begin their attempt to return to society under the auspices of hospital "Family Care Programs" designed to ease the absorption of former mental hospital patients into the community. But the Family Care plan -- as it relates to the SSI system -- has generated both waste and dishonesty. It pays for a community-bound patient's room and board while he awaits a decision on his application for a monthly SSI check -- an eligibility determination that often requires as much as six months' time. Once eligibility is established, the first SSI check mailed to the new SSI beneficiary is made retroactive to the date on his original application -- which means the initial check can amount to a considerable sum of money, depending on how long the eligibility determination takes.

Today's witnesses will show how it is possible to acquire and misappropriate this initial SSI check, obtaining a double payment for a period of care of boarders for which the Family Care Program already has paid. The testimony will illustrate efforts to counter this critical deficiency -- in one case by manipulating the regulatory process and in another case by a more effective contractual SSI reimbursement plan. And we also will demonstrate, through testimony, how a boarding home operator can take advantage of the loopholes in the system to his own unfair monetary gain. Administration experts next will explain their inability to cope with such a faulty funding system.

Overall, the testimony will stress the tremendous complexity of the solutions the Commission ultimately must propose.

In concluding this statement, I want to emphasize again that we do not intend by these hearings to indict an entire industry on the basis of the misdeeds of a portion of it. But we are certain that responsible boarding home operators will welcome this exposure of the problems as a means of generating corrective actions that will make their industry more creditable and purposeful.

The "Double Payment" Problem

A major area of abuse in the processing of SSI checks to boarders (many of whom never see any checks) was in retro-active payments by the Social Security Administration. Such payments covered a period of time between the filing of an application for SSI and approval of the applicant as eligible for such benefits. The abuse stemmed in part from the fact that mental hospitals through their Family Care Programs generally financed a released patient's boarding home costs during the interval when SSI eligibility was being established -- a time lapse that could range up to six months or more and could result in a large check of more than \$1,000 or \$2,000 going to a boarding home where the beneficiary supposedly resided. As following witnesses revealed, the only beneficiary of many thousands of dollars of these retro-active checks was the boarding home operator, not the hospital which failed to get reimbursed or the boarder who lost whatever "overage" might be due him or her.

The day's first witness was Mrs. Bertha Dickinson, assistant social worker supervisor at Trenton Psychiatric Hospital, who also supervised the Mercer County unit of the hospital's Family Care Program. At the time she testified, there were about 45 patients in the program, some 12 of whom were her responsibility. Commission Counsel Tosti questioned her about this program because so many participants in it were SSI beneficiaries:

Q. Could you explain the Family Care Program and how it works?

A. Yes. Family Care is an extension of the hospital where the patient is placed in a boarding home in their community and it can be a licensed or unlicensed home. He isn't discharged from the hospital, and he continues to receive follow-up and services as does the home operator continue to receive services from the hospital.

A contract is signed with the home operator for the amount of room and board, payment, and personal allowance to the client.

Q. And what is the purpose behind the Family Care Program?

A. The purpose is to give the client a trial situation at living in the community before his discharge.

Q. And does that purpose encompass both financial independence in addition to social adjustment?

A. Yes, it does.

SSI Retroactive Checks

Mrs. Dickinson testified that 90 to 95 per cent of the mental hospital's boarding home placements under the Family Care plan rely on SSI checks for whatever financial independence they may gain. To clarify the problems inherent in SSI reimbursement, Counsel Tosti referred to an S.C.I. chart* illustrating the "potential overpayment" deficiency:

Q. Mrs. Dickinson, this chart represents an example of a person who is placed on Family Care on January 1 of a given year and on February 1st will apply for SSI. The application process goes along and on July 1st that person is approved and the first check of SSI is sent to that individual. That means a five month delay between the application and the first payment. Is such a delay common in the SSI program as far as you are aware?

A. It is possible the delay could be up to that long. It is usually, I would say, in the area of about three months, but it does sometimes go up to six months.

Q. Would you agree then that the shaded area on that chart, whether in this case being five months, or in the case that you indicated as somewhat more typical of three months, would indicate an area of possible overpayment?

A. Yes, it is possible.

Q. And is that because the hospital has paid approximately \$278 to a licensed boarding home?

COMMISSIONER LANE: Each month?

Q. Each month, and the Social Security Administration, through the SSI Program, pays back in this direction approximately \$308 per month?

A. It is a possibility, yes.

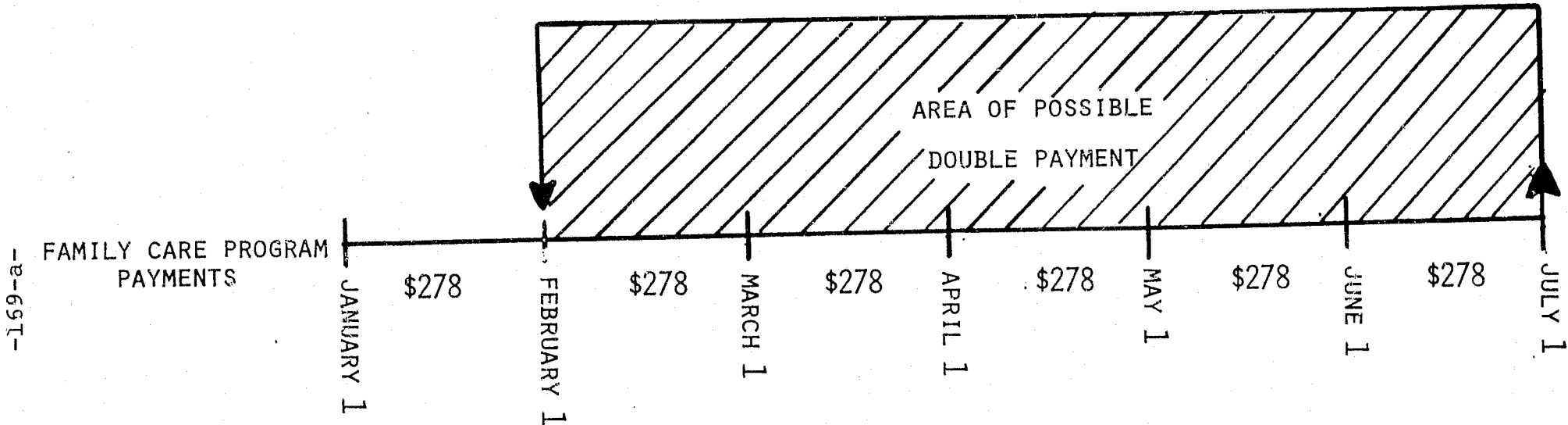
Q. Now, even though the hospital has paid that \$278 per month, the check for \$308 per month retroactive to the date of application is then received by the client; is that correct?

A. Yes.

*See Chart, P.169-a.

SSI REIMBURSEMENT AND THE
FAMILY CARE PROGRAM
EXAMPLE

RETROACTIVE SSI CHECK



-a-69t-

JANUARY 1, 1977 - RELEASE FROM MENTAL HOSPITAL

FEBRUARY 1, 1977- APPLICATION FOR SSI BENEFITS

JULY 1, 1977 - SSI IS APPROVED AND FIRST CHECK IS DISBURSED IN AN AMOUNT WHICH IS
RETROACTIVE TO THE DATE OF INITIAL APPLICATION, FEBRUARY 1, 1977

Q. Now, are you notified by Social Security in any way that that number one, the check has been sent out, and the breakdown of that check as to how far it goes back in time?

A. We are not notified at all.

Q. Does Trenton Psychiatric Hospital have a program to recover the payments that have been now reimbursed by Social Security and are now in possession of either the boarding home operator or the client himself?

A. The only way we can recover is if the home operator will notify us of the amount of the check or checks. I will notify the business office to bill the hospital operator for the amount of the Family Care payment to the home back to the date of the retroactive check. If we know the date.

Q. Have you ever attempted to get this information from the Social Security Administration on a regular basis?

A. Only on a couple of occasions, and of course, they are reluctant to give out any information.

Q. I show you what has been marked C-152 for identification which purports to be a contract for Family Care from Trenton Psychiatric Hospital. I ask you if you can identify this?

A. Yes, this is the contract that is completed and signed by the boarding home operator and a witness and it has the certification note that was added during the last fiscal year which requires the sponsor or the home operator to notify the institution as soon as patients receive their first SSI payment, and also provide the effective date of the payment and two, to refund to the institution any overpayments received after the patients have begun to receive SSI payments.

Q. As far as you know, Mrs. Dickinson, has that certification note that's stamped on the contract been honored by the boarding home operators?

A. By some of them.

Q. What percent would you think that is of the boarding home operator?

A. Well, we're notified when the client receives a monthly check for the room and board but, I can't state in what number of instances we are notified by the retroactive check.

Q. You just don't have any information?
A. I wouldn't have any way of knowing.

Costly to Taxpayers

Karl Marx, business manager of Greystone Psychiatric Hospital, testified about the failure of most boarding home operators to honor at least a moral obligation not to accept double payment for services to a hospital-financed boarder. Mr. Marx also indicated how costly this failure was to the hospital and, therefore, to the taxpayers:

Q. Now, I've just gone over that chart indicating the reimbursement program that is in effect with the certification note on the contract. Are you aware of that note, the stamp?

A. Yes, I am familiar with that; yes.

Q. Now, as the system now stands, is the hospital dependent on the willingness of the boarding home operator to honor that note?

A. Yes, it is.

Q. And how has your level of success been in receiving reimbursement from boarding home operators?

A. In recent history we are now dealing with approximately five Family Care homes, only one of which is honoring the requirement placed upon with that stamp of the reimbursement of SSI monies.

* * * *

Q. And how much money was spent on sheltered care and Family Care Program in fiscal 1978?

A. As of again, as of March, \$46,579.

Q. And how much reimbursement has been received from boarding home operators?

A. To date \$7,424.17.

THE CHAIRMAN: Do I understand those figures correctly that the hospital has paid some \$46,579?

THE WITNESS: That's correct.

MR. CHAIRMAN: And within that same fiscal year in spite of the fact there is certification to the contract the reimbursement was only \$7,724.17?

THE WITNESS: That's correct, entire fiscal year.

COMMISSIONER LANE: Do you have an explanation of why the rest of that money was not reimbursed?

THE WITNESS: Because we are dependent upon the Family Care home owner to respond to us when they receive -- when the patients receive SSI checks so far as the retroactive date is concerned. So, again, they are returned, as one Family Care owner has been doing this past fiscal year.

COMMISSIONER LANE: I take it it would be wise to provide some method of recapturing that money, though, would it not?

THE WITNESS: Yes, it would.

Hospital Lost Over \$100,000

Trenton Psychiatric Hospital's losses ranged into the hundreds of thousands of dollars, more than \$110,000 in the 1978 fiscal year alone. These details came from the hospital's head clerk-bookkeeper, Margaret Bocskay whose responsibilities included the recording of reimbursements to the hospital for Family Care expenditures at boarding homes on behalf of released patients. Her testimony:

A. I would record any recovery received from the charges, all charges.

Q. That is reimbursement from overpayments by the hospital to Family Care homes?

A. Yes.

Q. Could you tell me the number of patients that have been in program in 1978?

A. 143.

Q. And for 1977?

A. 159.

Q. And for the year 1976?

A. 198.

Q. And what was the amount actually expended on sheltered care cost by the hospital in those years?

A. '76 was \$184,257.04. In 1977, \$150,112.14. In 1978, \$120,769.19.

Q. How much reimbursement was received from those on SSI in those years?

A. There was none in '76. In '77, \$1,496.04. In 1978, \$9,532.61.

Q. And the increase, there's a sharp increase noted in 1978. Could you explain that?

A. We are payee, representative payee on all the SSI, on most of those.

Q. Could you explain that concept of representative payee, please?

A. We've been applying to the payee on incompetent patients instead of referring the Family Care homes to do so.

Q. So, that the check, the retroactive check from the Social Security Administration would come to the hospital in the first instance rather than to the client or to the boarding home operator?

A. Yes.

Q. Now, how many boarding home operations have participated in this reimbursement that has totaled \$9,532 in the year 1978?

A. Two.

Q. Only two, the others are not responding?

A. No.

Q. And as the system stands now unless the hospital is made representative payee, the hospital is dependent on the operator to come forth and notify the hospital that SSI retroactive checks have been received?

A. Yes.

MR. CHAIRMAN: May I ask this question? As I understand it then where the hospital makes the original payments it continues to pay until such time as the SSI picks up; is that correct?

THE WITNESS: Yes.

MR. CHAIRMAN: But, within that SSI payment there is retroactive amount and you don't always know what that amount is, and many times you are not told.

THE WITNESS: Unless they tell us the amount of the check and the retroactive date we have no way of knowing.

MR. CHAIRMAN: Now, from your position, do you have any idea or an opinion that if a patient received that retroactive check in essence, it is like receiving a double payment from the month in which there is the retroactive amount; is that right?

THE WITNESS: Yes.

MR. CHAIRMAN: Do you know what happens to that money?

THE WITNESS: No, I don't.

Ancora Losses Also Large

Nancy Nelson, head clerk-bookkeeper at Ancora Psychiatric Hospital, contributed another chapter to the litany of cash losses suffered in taxpayer-supported mental hospitals as a result of the mishandling by boarding home operators of SSI retroactive checks:

Q. Do you know the amount of money expended on sheltered care alone in the Family Care Program for the years 1978?

A. In 1978, \$109,400.

Q And 1977?

A. \$194,909.

Q. And 1976?

A. \$224,448.

* * * *

Q. And in that period of time from 1976 through the present approximately how much reimbursement was received by the hospital from Family Care patients who received retroactive Social Security checks?

A. Approximately \$7,000.

* * * *

Q. So, you were not regularly notified by Social Security that an SSI retroactive payment has been sent to the former Family Care patient?

A. No.

Q. But, do you know if that's been pursued by Social Service Department?

A. On the Family Care contracts I think that there has been a rubber stamp that's put out on them now where it says if you are reimbursed by SSI for any portion that the hospital has paid you are supposed to return it, but I have never gotten any.

Q. No reimbursement amounts have crossed your desk?

A. No.

Q. So, the way the system seems to be working is that the hospital has to rely on the operator of the home or the patient himself to call the hospital up and say I have received a lump sum retroactive SSI check for, say, \$2500 and I believe the hospital is entitled to some of this, how much do I owe you.

A. At this point that's what I have to rely on.

Q. And in reality, does that happen?

A. No.

Marlboro Had a Better System

Marlboro Psychiatric Hospital became concerned some years ago over the absence of reimbursements for its expenditures on patients released to boarding homes. As a result, it regained larger portions of its expenditures than was the custom at other state mental hospitals. Robert G. Evans, a supervisor at Marlboro, testified about that hospital's experience:

A. Well, a system at Marlboro, the patient was being incompetent, the checks would come to Marlboro. The patient would be discharged -- pardon me, the patient would be placed on Family Care and members of my staff can continue to pay the Family Care operator on a monthly basis for the care, and when the SSI check was sent into the hospital, it was picked up for maintenance until the patient was discharged. That's how the hospital reimbursement --

MR. CHAIRMAN: Can I get that again?

COMMISSIONER LANE: The latter part of that, you said something about SSI checks?

THE WITNESS: The patient being on Family Care, the SSI check would come to the hospital, payable to the hospital as the hospital was the payor. We would continue to pay the Family Care operator from the Family Care funds and we would utilize this SSI check as a reimbursement to that account until the patient was discharged.

COMMISSIONER LANE: And how often does this happen? Is this a regular procedure that you or the payee of that SSI check or is this --

THE WITNESS: This became a regular procedure when at Marlboro, the hospital -- excuse me, the hospital is payee for approximately 99 percent of all the patients' checks, either Social Security or SSI, VA as well.

COMMISSIONER LANE: And how long has that been going on?

THE WITNESS: As long as I can remember, sir, and I've been doing the job for fifteen years.

EXAMINATION BY MR. SCHIRMER:

Q. So, just that I understand your testimony, the person is released to the Family Care Program, the application is made for SSI benefits.

A. Immediately.

Q. Now, the hospital then applies for and normally becomes a representative payee.

A. Yes, sir.

Q. When the retroactive check finally comes in and during this interim period the hospital had paid the Family Care payments when the retroactive check comes in it then comes to the hospital; is that correct?

A. That's correct, sir.

Q. Mr. Evans, the system that you have devised, have you devised this system since there is no other orderly system which will insure that your hospital is reimbursed for money that it has expended on Family Care?

A. To the best of my knowledge I devised this system with the cooperation of Mr. Baron and with the Executive Director of the hospital for that sole purpose so that there would be no duplicate payment.

Q. And you were very concerned that there had been duplicate payments and you weren't sure what was happening to the duplicate payments, the check was then being sent to the --

A. I came up with this system prior to the issuance of many checks and devised this system to eliminate any chance of duplicate payment. It was more preventative than anything else.

Another reason I went into this is that we used the same method for Social Security and when one Social Security check is lost or mislaid, it is one devil of a job trying to help everybody find it.

Q. The money that you are able to bring back into the hospital by means of the procedure you have devised, does this help subsidize a Family Care Program and increase the ability of the Family Care Program to take on additional patients?

A. Yes. Yes, the money that is the State's share could be put right back into the Family Care account making therefore a revolving fund. That share of the money, while the patient is on Family Care and has been supported by the State and County funds, the County share of the Family Care can be reverted right back to that on a recovery basis.

Q. Mr. Evans, how effective is this program?

A. I'm prejudiced, I'm biased, I say it is very effective.

Q. Could you put a percent on that, for instance assuming you could get back a hundred dollars in a given period, if you got all the money back under your system, how much money would you get back? Could you put a percent on it?

A. I would say we would be able to hit at least 60 percent of all funds.

Q. Now, could you tell me how much was expended by the Family Care Program by Marlboro State Hospital for the year 1976?

A. For the year 1976 out of the Family Care Program \$272,553.11 was spent. Of that, some \$248,893.11 was spent on direct Family Care expenditures.

Q. Of the amount expended on the direct Family Care Expenditure, how much was reimbursed?

A. In 1976 I was able to recoup \$15,803.23 from the SSI Program.

Q. For the year 1977 what was the amount of money expended directly for Family Care?

A. Directly to patient care in 1977, \$207,800.90.

Q. And how much were you able to recapture?

A. \$36,075.33.

* * * *

EXAMINATION BY MR. SCHIRMER

Q. Just to clear up one matter there is a significant difference between the amount you recapture and the amount expended, are there quite a few people that enter the Family Care Program that never apply for SSI benefits, and this would partly or completely explain the discrepancy between your figures, because the person who is in the Family Care Program and has not applied for SSI would not be eligible for any type of reimbursement and ergo the hospital would not be entitled to any type of reimbursement.

A. Yes, sir, but on every patient that is placed, every patient that is placed on Family Care we apply for SSI. If the patient is under the age of 65 then we have to make a formal application. We have to submit medical evidence to the Social Security Administration and to the State's offices up on Raymond Boulevard, and the patient has to be determined to be disabled.

This takes approximately two or three months. If they do not declare the patient as disabled, then he gets no SSI. Meanwhile, the patient is still on Family Care.

A Plan that Works

Mrs. Leomae Good, director of the Trenton City Welfare Department, had testified earlier in the week. She was recalled to testify about a reimbursement system that worked -- the system utilized by her agency. Counsel Schirmer:

Q. You've previously testified at this proceeding concerning placement of the ex-mental patients in boarding homes. We have called you back today in order for you to explain how the City Welfare is reimbursed for SSI funds when the City Welfare extends interim benefits to a person who has applied for SSI benefits.

Question: When a person is discharged from a mental hospital and has applied for SSI benefits, does City Welfare extend interim benefits to this person pending his approval of SSI benefits?

A. Yes.

Q. Explain how this system operates.

A. The Division of Welfare has forms that are signed by applicants when they apply for Welfare. These forms are signed by the client stating that they are requesting Welfare more or less as a loan pending receipt of SSI.

Q. Are these the forms you are talking about?

A. They are the forms.

Q. Now, could you explain how they are used, and before you explain how they are used, does this arise from a formal agreement between the Social Security Administration and the Department of Public Welfare?

A. Yes, this form, these forms are printed by our State Division of Welfare and they have made up these agreements and it has been settled through them. The patient, the client signs them and we send the original copy to the Social Security office and a copy is given to the recipient and another copy is kept in our file.

Q. Then what happens when the check comes in from Social Security assuming they are found eligible, where does that check go?

A. The check goes to our State Division of Welfare and is then transferred to the trust fund of the Welfare Department.

Q. What do you do with that fund?

A. We have another form that is a GA-31.

Q. I show you what has been marked for identification C-156 form GA-31 entitled -- well, it is just a letter with a reimbursement statement on it. Is that the form you use?

A. That is correct. On this form we have the client's name and address, the date that the check is received and the total amount of the check, the amount of assistance that was granted from the date of the application until the date that that check was received. This is subtracted from the total amount of the check and the balance is sent to the client with a copy of this letter.

Q. Is this a fairly effective means to assure yourself that you get reimbursement for those interim benefits that you've extended?

A. Yes, it is fairly beneficial.

Q. Just to summarize your testimony, then, the person comes to Welfare, he's given interim benefits, he applies for SSI for a period of time the person receives interim benefits. Again, at a certain period of time the retroactive check comes in instead of going directly to the person it is then sent to the State Department of Welfare which then sends it to Trenton City Welfare. Trenton City Welfare makes an adjustment subtracting from the gross amount of the check those monies you've expended and you send the balance onto the resident; is that correct?

A. That's correct.

COMMISSIONER LANE: Mrs. Good, this agreement that is signed here and the letter that goes to Welfare Department from the Welfare Department, do you have a difficulty with Federal authorities in accepting this method?

THE WITNESS: There's no problem whatsoever. The Social Security office issues a letter prior to the issuance of the check. A letter is sent to the recipient and one copy to our State Division of Welfare.

COMMISSIONER LANE: Well, this seems so simple and you are satisfied you are getting all the retroactive reimbursement your department is entitled to; is that correct?

THE WITNESS: Not always because there are some slip-ups. Sometimes the checks are sent to the recipient instead of to our division.

COMMISSIONER LANE: But generally this system works?

THE WITNESS: Yes.

COMMISSIONER LANE: I just wondered why the hospitals haven't gotten this system if it is that simple.

How Pliner "Processed" SSI Checks

Gerald Pliner, through Leon and Sylvia Pliner, Inc., operated a lucrative boarding home business in Atco in Camden County that grossed more than \$600,000 annually. More than \$200,000 of this went to Mr. Pliner and relatives in salaries and profits. In addition, he paid rent of over \$50,000 to a company, Pliner, Inc., owned by himself and his mother. Other details of Mr. Pliner's testimony about his boarding home operations will be reported later. At this point Counsel Schirmer resumed questioning on the day's primary topic, the misuse of SSI retroactive checks.

By his own admission, Mr. Pliner never sent SSI retroactive checks to a hospital as reimbursement for costs of a boarder already paid to him by the hospital. Instead, such checks went into what he described as an "escrow account," which was used to make up any shortages in rental payments he required from boarders to whom such checks were addressed. As for his rental rates, they fluctuated according to the size of the SSI checks that came in to his boarders -- becoming larger after SSI retroactive checks were received and put into "escrow". Commission Counsel questioned Mr. Pliner about three individuals whose placement in Pliner's L & S Rest Home resulted in the receipt of retroactive checks in their behalf.

One of these boarders was Maureen Haggas, in whose name Mr. Pliner as the "representative payee" received a retroactive SSI check for \$1,936.56 in April, 1977. The testimony:

EXAMINATION BY MR. SCHIRMER:

Q. Just referring to this document indicates on 4/13 the retroactive check is received, \$1,936.56; is that correct?

A. That's correct.

Q. Prior to the time the rental amount was approximately \$270 per month.

A. Correct.

Q. Once the check is received the rental charge is \$375; is that correct? Look at 5/1/77.

A. For that month; correct.

* * * *

THE CHAIRMAN: What is the posted rate?

THE WITNESS: I don't know at that time, but today our posted rate is \$380 a month.

MR. CHAIRMAN: 380 on income someone in Family Care and you receive 270 and you waive the difference?

THE WITNESS: That's correct.

EXAMINATION BY MR. SCHIRMER:

Q. Referring again to the document the account Mrs. Haggas prior to the retroactive SSI check, her rental rate for room and board was \$270 per month, approximately.

A. Yes, with the waiver included.

Q. Then the retroactive check is received 4/13/77 in the amount of \$1,936.56; correct?

A. Correct.

Q. That month on 5 -- I'm sorry, next month 5/1/77 the rental charge is 375 less \$25 personal spending money for \$350; is that correct?

A. Correct?

Q. The next month we have an increase in the rent, July 1st, 1977 the charge is 395 less \$25 or \$370; is that correct?

A. That's correct. That was a general rate increase for all residents, not just this party.

Q. Now, all during this time the person is receiving his normal SSI check, and I refer your attention to the check received 7/3/77, SSI check \$308.

A. That's correct, but they are given credit for their normal SSI check that they receive against the rate. In other words, they are not being charged double, if that's what you are trying to imply.

Q. I'm not implying that.

MR. CHAIRMAN: I didn't take that from the question either.

Q. Now, each month the SSI check comes in for \$308. The rental rate is \$395 less \$25. Where does the difference between those two rates come from?

A. From the resident's funds.

Q. The retroactive check deposited in the savings account on which you are a representative payee which means you have access to that account; is that correct?

A. In this particular case; yes.

COMMISSIONER LANE: I would like to add if there is a proper time for it, how much of that retroactive check was paid back to the State who had provided this Family Care money for those certain months?

THE WITNESS: Are you making an assumption that there was a request for payment to the state?

COMMISSIONER LANE: I'm asking how much; if you know.

THE WITNESS: I've never been informed that they are entitled to reimbursement, sir, and no money has been refunded on Maureen Haggas.

A "Revolving" Fund

Mr. Fliner testified that he would put a retroactive SSI check into a savings account in the name of the boarder but to which he had access as her "representative payee." When he needed more money to fully satisfy Mrs. Haggas' rental

obligation to him he would make transfers from the savings account to a "revolving account" for rent-paying purposes. Counsel sought to clarify the transfers from savings account to rent-paying account:

Q. Now, April 15, 1977, the receipt of the initial retroactive SSI check \$1,936.56; correct?

A. That's correct.

Q. Then we have a withdrawal within six days, April 21, 1977 of \$450 bringing the account down to \$1,486.56; is that correct?

A. Correct, it was added on her sheet as a receipt for --

Q. Now, referring back to C-158 you'll notice a deposit on that revolving account on 4/21/77 of \$450; is that correct?

A. Correct.

Q. So, what is happening here is that as this revolving fund runs out of money because the amount spent for room and board is larger than the SSI check, you simply go to the savings account, withdraw an amount and deposit it in the revolving account; is that correct?

A. Yes.

Q. And periodically you replenish the revolving account.

A. Correct.

Q. So, we find on July 26, 1977, \$300 is withdrawn.

A. Correct.

Q. Who withdrew that amount; yourself or Mrs. Haggas?

A. I couldn't answer that. I don't usually withdraw any of them. I don't handle the bank situation.

Q. Is it somebody in your employ or is it the person themselves?

A. I would think that one of my employees probably made that withdrawal.

COMMISSIONER LANE: I understand this account is under your corporation's control; isn't it?

THE WITNESS: That's right, that's why I answered, I assume one of my employees did it; correct.

Q. Now, we have another withdrawal, \$300, October 21, '77; another withdrawal December 25th, 1977 -- I'm sorry, December 28, 1977, \$300; and finally March 28, 1978 of \$150 bringing the account down to \$436.56; is that correct?
A. Yes, that's correct.

* * * *

MR. CHAIRMAN: Wait a minute, wait a minute, Mr. Pliner. Let's understand one thing. You are receiving \$270 a month for this woman.

THE WITNESS: Up until 4/13.

MR. CHAIRMAN: Up until 4/13?

THE WITNESS: Correct

MR. CHAIRMAN: Now, what happens at 4/13 to change that? Does the rent go up or down?

THE WITNESS: At 4/13 they were discharged from Family Care. I assume --

MR. CHAIRMAN: But, then you received a --

THE WITNESS: Retroactive SSI check.

MR. CHAIRMAN: And what did the rent do, go up or down?

THE WITNESS: The rent was \$350 a month.

MR. CHAIRMAN: So, the rent went up.

THE WITNESS: That's correct.

"They Never Requested"

Mr. Pliner in his testimony indicated that he was under no obligation to relay an SSI retroactive check back to a hospital if the hospital didn't ask for the reimbursement. "They never requested" was to be his stock comment when asked about his use of such retroactive checks:

COMMISSIONER LANE: May I ask a question while Mr. Schirmer is getting ready? Up to this point from that retroactive check of a thousand dollars plus as the State of New Jersey provided the Family Care money of a period of some months,

has it ever received any of that money back was due them?

THE WITNESS: I answered that question prior, and the answer was no, they never requested.

COMMISSIONER LANE: They have not received even up to today any of that money in repayment that they put out, the State?

THE WITNESS: You mean as of today, right now?

COMMISSIONER LANE: Yes.

THE WITNESS: No, I haven't -- I haven't re-funded any money.

* * * *

The \$2,238 Retroactive Check

Commission Counsel turned next to an SSI check in the amount of \$2,238.66 which came to the Pliner boarding home in April, 1978, in behalf of another boarder, David Fitzgerald. Prior to the receipt of that check, Mr. Pliner agreed that Mr. Fitzgerald's room and board rental amounted to approximately \$270 a month. The testimony:

Q. That money is then deposited in an account; is that correct?

A. That's correct.

COMMISSIONER LANE: Under whose control?

THE WITNESS: Under our control.

Q. And this is a projection of that account; correct, new account?

A. Yes, that's an escrow account.

Q. \$2,238.66; is that correct?

A. Correct.

Q. Then 5/1/78 we have the first rental payment \$395 less \$25, so the rental amount which goes to you is \$370; is that correct?

A. Correct.

Q. Then we have a withdrawal from the account to replenish the accounting sheet; is that correct?

A. That's correct.

Q. So again we have a similar situation that we had in Mrs. Haggas -- the sheet is set up -- the accounting sheet, as you run out of money in that account you periodically make a withdrawal from the savings account, the first being for \$500 in April 17, 1978, the second being \$300 on May 23rd, 1978; is that correct?

A. Correct.

Q. And that's money which is used to replenish the accounting sheet, and the accounting sheet is then used to make up the difference between the \$308 and what you charge Mr. Fitzgerlad for rental; is that correct?

A. Accounting sheets used to make up all his charges of whatever it may be.

COMMISSIONER LANE: I ask on that check that you just -- that retroactive check for the State of New Jersey had been repaid any amount of money at all for the money they advanced at the Family Care plan?

THE WITNESS: No, they've never requested, sir, it has never been requested.

COMMISSIONER LANE: I didn't ask if they requested.

THE WITNESS: My answer is no, it has never been requested.

COMMISSIONER LANE: That poses another question. Don't you have any realization that some money is due them in repayment of money advanced to the State?

THE WITNESS: No, sir, because Social Security tells me that money is not to be used for past debts; for current needs only.

COMMISSIONER LANE: That retroactive check, none of it is to go back to the State?

THE WITNESS: The Social Security --

(Witness and counsel confer.)

THE WITNESS: The Social Security pamphlet for that they hand out for representative payees states that without their special permission you are not allowed to refund any money, not refund, I take it back, you are not allowed to pay any past debts without any special permission.

COMMISSIONER LANE: Have you ever asked permission on these two instances we are talking about?

THE WITNESS: No, but no one had requested any payment of any past debts.

EXAMINATION BY MR. SCHIRMER:

Q. But you can use that amount to increase the rent?

A. You can use it for any need that the individual has.

* * * *

Rent Depended on Retroactive Check

Commission counsel next referred to Mr. Pliner's accounting for George Kutcher, a boarder in whose name he received a retroactive SSI check for \$1,551.41 and which he deposited in a so-called escrow account in December, 1976. During 1977, so long as funds from the retroactive check were available, Mr. Kutcher's monthly rent ranged up to \$350 and then to \$370. When the account was closed, after all the money had been withdrawn, Mr. Kutcher's rent dropped. The testimony:

Q. All I'm trying to establish is the money in that accounting sheet ran out, that the rent dropped to \$283.

A. That's correct, and we advised you before in the testimony that we waive when someone can't afford it, we waive the difference consistent with our policy.

COMMISSIONER LANE: Now, before that account ran out, I guess that account was under your control or your corporation's control; was it?

THE WITNESS: Yes, it is an escrow account.

COMMISSIONER LANE: Did any of that go back re-payment to the State for money in advance for Family Care?

THE WITNESS: I think my statement on the other residents --

COMMISSIONER LANE: Just answer it yes or no we'll move along, if you can.

THE WITNESS: No, it was never requested.

EXAMINATION BY MR. SCHIRMER:

Q. *Wouldn't it be more simple, Mr. Pliner, that when the retroactive check comes in to simply take that check because in a sense, that's what you are doing?*

A. No, that's not correct. Would you like an answer?

Q. Yes.

A. Okay. The reason is why it is not the same because what you are implying would be wrong because if a resident left the following month after the account was open, the resident would have the balance of the money refunded.

Q. *Does a resident negotiate with you the rental rate of \$370 per month?*

A. No, I previously testified our rate is not negotiated, it is posted on the bulletin board and that is the rate. The only exception is made when someone cannot afford in cases of hardship.

Q. *But, if they don't have any savings account, then the rate is \$283 per month?*

A. Are you asking a general question involving all residents?

Q. *I'm talking about the last case we just spoke about.*

A. In the last case, that's correct. But, there was a hardship.

Q. *Do you have many mental patients in your boarding home?*

A. Define what you call a mental patient. Would you define a mental patient?

Q. We are talking Family Care patients, aren't they all from mental institutions?

A. Yes.

* * * *

Pliner's Financial Operation

Mr. Pliner's testimony included a discussion of his corporate finances. He testified that he and his mother, Sylvia, each own 26 per cent of the corporation's stock shares and that his sisters, Victoria Kravitz and Eileen Armodo, each own 24 shares. He also testified about the salaries paid to himself and the Pliner family -- \$40,000 to himself, \$30,000 to his mother, \$20,000 to one sister, \$3,086 to the other sister, and \$9,000 to his wife. The corporation also paid rent of \$51,623 to a company he and his mother own.

Between Commission counsel and Mr. Pliner and his counsel, a rough formula was worked out under which it was agreed that the raw food costs for feeding Mr. Pliner's boarders amounted to about 86 or 87 cents per day per boarder. This was the second lowest raw food cost of any boarding home operation scrutinized in the Commission's investigation.

Mr. Pliner agreed that his federal tax return for fiscal 1976 listed \$21,939 for pensions and profit sharing. Counsel Schirmer asked about this item:

Q. Could you tell me who is included?

A. I don't have the records with me, but it would be all the employees which are eligible under the pension plan and trust agreement.

Q. Is the share of the employees pending on the amount of salary they bring in?

A. The percentages is based on salary; that's correct.

Q. So, with your large salary you would derive a significantly larger proportion from that pension and profit sharing fund than somebody who might, let's say, bring in \$4 an hour?

A. That's correct.

The Pliner Chart*

For a professional explanation of Mr. Pliner's boarding home finances, the Commission asked Mrs. Helen K. Gardiner, the S.C.I. Special Agent/Accountant who audited the Pliner corporation records, to testify. She referred to a chart which showed that the gross income of Leon and Sylvia, Inc., including \$9,100 in vending machine sales to boarders, was \$620,775 for their 1976-77 fiscal year. Counsel Schirmer asked her to discuss various items on the chart:

A. Upon examination of Federal Income Tax Return which was prepared for fiscal year 1976, certain adjustments were made so that only gross income of the boarding home business was reflected which amounted to \$620,775 for fiscal 1976.

Based on the tax return we examined the various components and determined that salaries and wages for supervision amounted to 25 percent of gross income or \$157,549.

Over operating costs were 25 percent \$153,354.

Rent paid to Pliner Income, Inc., was \$153,623 for 8 percent of gross income. Food was 8 percent for approximately \$48,000. Salaries for administration which was exclusively the Pliner family was 17 percent or \$107,995 leaving a profit from the operation of the boarding home of \$101,654 for 17 percent.

* * * *

COMMISSIONER KADEN: I would like to go back to the Pliner home for a minute. On the rent payment of \$51,623 is that a net rent payment so that the expenses of operating the house would be reflected in operating costs rather than in rent?

THE WITNESS: Yes, it is. The operating costs are reflected in the other portion of the chart in the 25 percent operating costs are \$153,000.

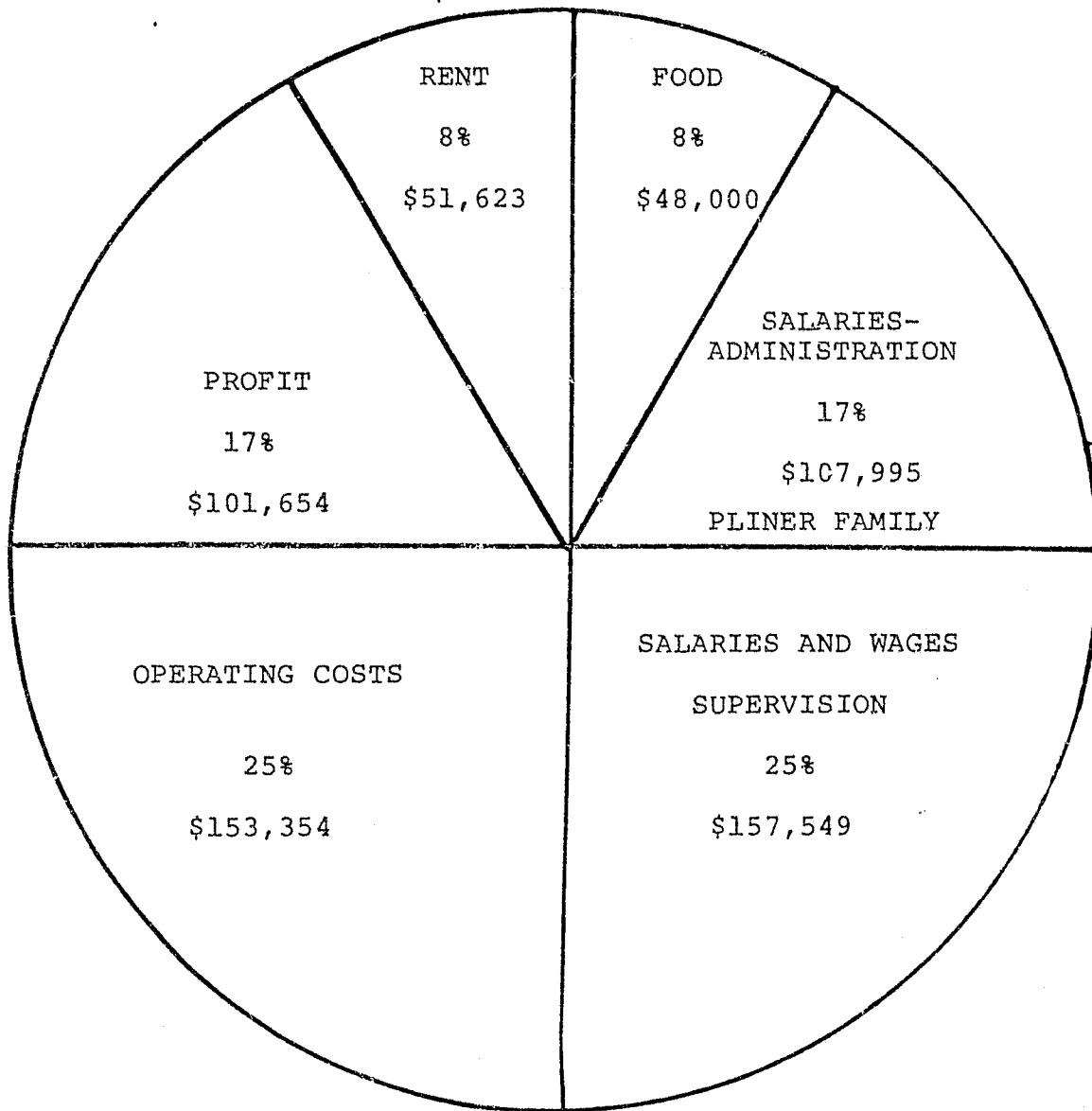
*See Chart, P.191-a.

LEON AND SYLVIA PLINER, INC.

T/A L & S BOARDING HOME

1976

7/1/76 - 6/30/77



GROSS INCOME - \$620,775

INCLUDES VENDING MACHINE SALES - \$9,100

SALARY INCLUDES APPORTIONMENT OF PENSION CONTRIBUTIONS

RENT INCLUDES PAYMENTS TO PLINER, INC.

SOURCE: FEDERAL INCOME TAX RETURN

COMMISSIONER KADEN: And the family owns that real estate?

THE WITNESS: Yes.

COMMISSIONER KADEN: Did you do any evaluation of the value of that real estate or the fair market rent?

THE WITNESS: No.

COMMISSIONER KADEN: You did not, so you don't know to the extent of which 51,000 is a fair rent or inflated rent?

THE WITNESS: Right, we didn't examine the books of Pliner, Inc., which is the real estate holding corporation.

COMMISSIONER KADEN: That's the family company that owns the real estate?

THE WITNESS: Yes.

COMMISSIONER KADEN: The \$107,995 for salaries-administration entirely goes to the Pliner family?

THE WITNESS: Yes, that results from \$99,000 in salaries to the four members of the Pliner family who are receiving salaries plus the proportionate share of the pension and profit sharing based on the salaries.

COMMISSIONER KADEN: And evaluating a family corporation it is fair, is it not fair to the group operating profit with salaries to family members, owners of the corporation if you do that you come up with a total of almost \$210,000 in that year --

THE WITNESS: That's right.

COMMISSIONER KADEN: -- to the Pliner family?

THE WITNESS: That's right.

COMMISSIONER KADEN: If you add to that the rent on the building which they own you get over \$250,000 to the Pliner family that they took out of the program?

THE WITNESS: That's correct.

COMMISSIONER KADEN: In that year?

THE WITNESS: For one year.

COMMISSIONER KADEN: And the same time leaving out of a gross income of 620,000 I have 620,000 they collected 250,000 they put in their pocket.

THE WITNESS: And resulting in taxable income of \$101,000.

COMMISSIONER KADEN: In any event out of the \$620,000, 250,000 of it they take and put in their pocket and spend the remainder of \$370,000 on operating the facility.

THE WITNESS: Yes.

The Other Side of the Story

As is customary at Commission hearings, all sides of an issue are entered into the public record in order to provide a comprehensive base for the Commission's recommendations and for the legislative effort to implement them. That was the primary point of Chairman Rodriguez's preface to Thursday afternoon's session:

The public record is now replete with evidence of the irregularities and improprieties on which the Commission's investigation of the boarding home business has focused.

Now we wish to open the record to the observations, experiences and proposals of federal, state and other governmental officials who are responsible for the day-to-day oversight of New Jersey's boarding home operation and for the well-being of the industry's aged and disabled clients.

Just as the Commission has no desire to blacken an entire industry by exposing the misconduct of some of its entrepreneurs, so we also stress that many in government who are burdened with the obligation of trying to make a deficient system work have tried earnestly and laboriously to overcome the obstacles.

The afternoon session will concentrate on their side of the story.

"I Can Only Assume That We Goofed"

Dr. Solomon Goldberg, director of licensing, certification and standards for health facilities, described State Health Department procedures for processing complaints against health care facilities, including boarding homes. His job required him to evaluate and take appropriate action on all valid complaints.

Counsel Schirmer cited a report by Facilities Evaluator Sharon E. Juliano alleging violations at Mrs. Rosalie Mosley's boarding home in Trenton. Her report was dated November 2, 1977 but Dr. Goldberg didn't request a letter for his signature -- warning the boarding home to discontinue the violations or face further action -- until Dec. 28.

EXAMINATION BY MR. SCHIFMER:

Q. But, that letter wasn't sent.

A. That's correct.

Q. Is there any reason that letter was not sent?

A. I can only assume that we goofed. I would say that looking at the person who normally handled that was a maternity leave and it may have been a clerical mix-up where it got filed rather than sent. I had not signed it, by the way.

No Follow-up

Counsel pointed to a report on an attempted suicide by the operator of a boarding home in Morristown, where boarders in need of supervision apparently had been transferred from Joseph Kube's boarding home in Linden:

Q. So, we have an indication that the operator of this home had a suicide attempt and he was taken away. We have four people in the home who required supervision, but nothing happened as far as you know from the Department of Health's standpoint?

A. As I indicated, I wasn't aware of it until recently.

Q. Is this a goof up?

A. I don't know if it is or not.

Q. Doctor, is there any use in visiting illegal boarding homes if nothing happens?

A. I'm not sure I understand your question.

Q. Well, the question is this: We have Mrs. Mosley's where there was no follow-up by the Department of Health. We also have Mr. Noll's where there was no follow-up by the Department of Health. Is it a waste of the inspector's initial visit if there is never a follow-up?

A. I would venture to say that in most, if not all, most cases there is follow-up. I would indicate that in case of Mrs. Mosley, the Department, in fact, followed up by phone and it depended upon the local authorities to give them assistance as we do in many other cases working with local health officers and local county welfare boards.

Again, No Action

Dr. Goldberg was next referred to a surveillance team report, requested by the S.C.I., on an unlicensed "satellite facility" where drugs and other medicine were being administered to residents. Counsel:

Q. Now, this is clearly a violation of the boarding home regulations, licensed boarding home regulations. Was anything ever done?

A: It is a violation of the regulation for unlicensed homes to be doing that.

Q. The report is dated 2/10/78. Has there ever been anybody, any subsequent follow-up on any report?

A. No, I don't know if anyone else has followed up on it. As you can see, I have not indicated by my initials I have seen it.

Q. Your previous testimony is that if a complaint is valid, then it is routed to your attention. Did you ever see this report?

A. No, I have not.

* * * *

Q. Mr. Hutchinson being an investigator for the State Commission of Investigation. So, the complaint was filed 2/10/78, seven days later we requested that whatever action you are going to take go forward, but to this date you say nothing has been done as far as you are aware.

A. That's correct.

Q. Is this another goof up?

A. Let's just say I didn't get the information that I was supposed to get.

Q. Are you a director in this program?

A. I'm a director of half the program.

Q. Is this your responsibility to get these reports?

A. My responsibility is to act on the reports when I get them.

The Boarding Home Manual

Part of Dr. Goldberg's job was to develop new or revised standards for all health care facilities, including boarding homes. Counsel asked whether the manual for licensed boarding homes had been changed:

Q. In the last five years how many new regulations have you put into effect concerning the licensed boarding homes in the State of New Jersey?

A. We've had two minor amendments and we are in the process of completely revising the current regulations.

Q. When did you start completely revising the manual of regulations?

A. I would guess the process started some seven months ago, and that's a guess.

Q. Just after the fire in Asbury Park?

A. Possibly, I'm not sure.

Two Changes in Five Years

One of the amendments mentioned by Dr. Goldberg would bar anyone convicted of a felony or high misdemeanor from operating a boarding home. The other would liberalize the definition of persons in need of care to include those who used braces, canes, crutches or walkers. Dr. Goldberg

wasn't certain whether every operator of a licensed boarding home had been subjected to a background check. He also indicated there were many regulatory loopholes:

Q. Is there any check on whether or not an operator is subsequently convicted of a felony or misdemeanor?

A. I don't know if there is or not.

Q. Are there any regulations concerning the qualifications of an operator to help administer drugs in your regulations?

A. Not that I'm aware of.

Q. But, the operators of a licensed boarding home can help supervise the administration of drugs; is that correct?

A. They cannot administer or dispense the medications, but they do supervise them.

Q. And many of the people that they supervise the drugs to are mental patients?

A. Former mental patients.

Q. Former mental patients?

A. That's correct.

Q. Do you have any regulations concerning the quality of people who supervise the facility in the operator's absence?

A. To my knowledge there are no specified requirements in the current manual.

Q. Do your regulations prevent the transfer of residents from a licensed facility to an unlicensed facility?

A. They do not.

Q. Do your regulations prevent the transfer of residents from an unlicensed facility to a licensed facility?

A. There is no such regulation.

Q. Do your regulations require the operator to place a forwarding address for the resident when he moves from the licensed boarding home?

A. They do not.

Questions of Jurisdiction

Dr. Goldberg said he needed "additional staff" and had requested funds for hiring more help. He noted he had been allowed to fill one licensing section job vacancy during the past several months.

The witness also discussed jurisdictional problems affecting boarding home operations. For example, he said he had been advised by the Attorney General that he did not have jurisdiction in a case where a boarder needing supervision was not getting supervision in an unlicensed boarding home. But if the operator of an unlicensed home was administering medication or otherwise supervising personal needs of boarders, Dr. Goldberg said he was empowered to order a halt to such activities. Commission Counsel:

Q. If the operator simply stops supervising those residents regardless whether those residents need supervision, do you have any more jurisdiction?

A. I am not absolutely certain I don't believe so.

Enforcement Problems

Dr. Goldberg said he did not believe any fines were levied for boarding home violations prior to January 1, 1977 and that "I believe since 1977 we have collected six fines." Commission Counsel:

Q. You indicated some difficulty in enforcing these fines. What's the problem here?

A. Well, if they chose, two problems -- first, they are entitled to request and receive a public hearing which takes time through the process. Assuming that the hearing process has been concluded and they are ordered to pay the fine, and then choose not to pay the fine, the Attorney General is then requested to collect the fine which means he then has to proceed in Court.

Q. And that causes quite a bit of difficulty?

A. I would assume the Attorney General's office has difficulty in meeting those requirements.

Regulatory Confusion

Chairman Rodriguez sought to clarify the witness' testimony on jurisdiction, or lack of it, in certain cases:

MR. CHAIRMAN: Doctor Goldberg, I simply have one that it appears from what you've said in accordance with the regulations that if someone is in need of supervision and doesn't receive it that they are not in violation of the regulations.

THE WITNESS: That is the Attorney General's opinion and as my counsel, that is what we've been following. Our currently proposed regulations which we are working on will challenge that.

MR. CHAIRMAN: Then the changes have not yet been made?

THE WITNESS: That's correct.

MR. CHAIRMAN: Under the regulations if they receive supervision, even though they don't need it, they are in violation of the regulations?

THE WITNESS: If they are unlicensed and they are providing supervision whether they need it or not, they would be in violation.

MR. CHAIRMAN: And if they are a licensed facility and supplies supervision and runs into any problems with a regulation, if they remove the supervision then they fall under the category and yield their license, would they then stay under the regulations?

THE WITNESS: If they surrender their license and no longer provide supervision, they would not be under the jurisdiction of the Department.

MR. CHAIRMAN: Even though they may still have the same residents within their facility?

THE WITNESS: That's correct.

Social Security Role

Because of the problems stemming from misuse of Supplemental Security Income checks, the Commission invited representatives of the Social Security Administration to testify again. These witnesses were Gregory C. Mashler, the senior SSI state

relations specialist for New Jersey; Kenneth Makin, a social insurance supervisor in the New York regional office, and Harry J. Reiber, assistant regional attorney for the Federal Health, Education and Welfare Department. Counsel Schirmer reviewed the problem -- summarized on Pages 2-3 of the preface to this report -- of SSI checks being mishandled. Counsel noted that residents of licensed boarding homes are eligible for larger SSI payments than are residents of unlicensed boarding homes. He cited a series of cases -- of 17 SSI recipients who were supposed to be in a licensed home "but were in fact found in an unlicensed facility," of nine other people receiving checks at the licensed boarding home rate who were living in an unlicensed place, and another group of nine in an unlicensed satellite in whose name checks at the licensed boarding home rate were being mailed. The Commission was informed by the witnesses that three such cases were under federal investigation and therefore could not be discussed.

Mr. Makin noted that Social Security field representatives have a responsibility to verify that the proper SSI checks are going to the proper addresses, but he indicated that the procedure was not spelled out to any degree:

MR. SCHIRMER: What does the field representative do to verify a person's address?

MR. MAKIN: Well, by going out to the facility; number one. It tends to increase the reliability. Now, as far as shuffling back and forth is concerned, this can be difficult to detect, but whenever a field representative is aware or gets any indication that this is occurring, then it is reported back and it is referred over to our Program Integrity Unit.

MR. SCHIRMER: Concerning the general duties of field representative, what does the Federal Government require a Field Representative to do, in particular, to discover whether a person lives at a particular address?

MR. MAKIN: The Federal Government or the Federal Regulations do not specifically go into detail as to how one must verify this. In other words, there are no specific A, B, C, D, E, F, G, things that one must go through.

This is something that an interviewer is to be constantly aware of and to obtain the mailing address and the residency address and be aware of any possible areas that this might not be the case.

MR. SCHIRMER: Are you aware of any regulations which would require a Field Representative to check the register at the licensed boarding home?

MR. MAKIN: There is no specific requirement to do this.

MR. SCHIRMER: Wouldn't this be a fairly easy procedure to determine who lives at that time?

MR. MAKIN: It would be a fairly easy procedure to institute; whether it would verify whether the person lived there or not, I don't know.

MR. SCHIRMER: This might be a first step; is that correct?

MR. MAKIN: Yes.

MR. SCHIRMER: Have you ever had any suggestions that this procedure be implemented?

MR. MAKIN: Not until just recently. And we have been discussing the possibility of introducing that procedure.

MR. SCHIRMER: Have you taken any other steps to alleviate the satellite problem as we've discussed for the last several days?

MR. MAKIN: Other than awareness and also sitting down discussing, introducing this procedure, nothing more than that at this point.

"Some Slippage"

The Federal witnesses said the Social Security Administration made continuous efforts, subject to the limitations imposed by the Privacy Act, to cooperate with the state in reducing SSI

abuses and that such efforts "would tend to point out that there is no federal indifference to overpayments in SSI." But the Commission wanted to know why the system wasn't working despite these efforts:

MR. SCHIRMER: You mentioned before that the Social Security Administration has made a concerted effort to emphasize to the people that it is their responsibility to report a change of address; is that correct?

MR. MACHLER: That's correct.

MR. SCHIRMER: Isn't this a rather unworkable system in the sense that many of these people are discharged mental patients and I think what has been pointed out for the past several days is that they are incapable of realizing their responsibilities to do this and many other things?

MR. MACHLER: I believe I agreed to that in effect a few moments ago, but when these individuals are discharged from state hospitals they are certified to Social Security as being capable of handling their own funds.

I do agree that we are dealing with a population that has difficulty in handling their affairs, but this is the system that we are working with.

MR. CHAIRMAN: But, more times than not when patients that are discharged from mental institutions you do receive the statement from somebody that says he is capable of handling his own affairs?

MR. MACHLER: That's correct.

MR. CHAIRMAN: We have been hearing for several days that there are many, many who are not capable of handling their own affairs that are in the boarding home community. Now, would that indicate that perhaps there is some slippage between who was calling what, who was defining the ability of these people?

MR. MACHLER: I would have to agree with that, sir.

Responding to questions by Commissioner Lane, Mr. Machler said an attempt is being made to work out with state agencies a plan to prevent boarding home operators from diverting to their own use retroactive SSI checks that should have reimbursed the state for hospital family care costs of boarders prior to their becoming eligible for SSI:

COMMISSIONER LANE: And you are well aware that some of these, a lot of these SSI retroactive monies have been disappearing in the pockets of people who shouldn't have them?

MR. MACHLER: From the testimony given this week, I certainly am.

COMMISSIONER LANE: Not until this week?

MR. MACHLER: Well, I probably became aware of it before the hearings, but not to the magnitude I've heard this week.

MR. CHAIRMAN: Can you tell us how long it has been since they've drawn attention to that problem in New Jersey?

MR. REIBER: I don't think attention, if you mean public attention, I don't think public attention has ever been drawn to the problem in New Jersey.

MR. CHAIRMAN: Just your own intention -- when have they started to train their gun, so to speak, on the State of New Jersey on this problem, if you know?

MR. REIBER: Well, for reasons that I've previously stated I can't say much more than this, but I have pointed out to you that there are currently pending three investigations which go specifically to licensed boarding facilities in the State of New Jersey.

When the results of these investigations become known, I assume that they will be referred to the appropriate authorities or in the alternative retired. The appropriate authorities, if there has been a violation of Federal SSI law would be the United States Attorney's office.

MR. CHAIRMAN: So, then those investigations not only include the potential of a satellite that might be being overpaid, but also the potential of even the licensed structure abusing the SSI reimbursement retroactive payment?

MR. REIBER: I would have to say that as far as the Social Security Administration is concerned we are interested in the remaining satellite, interested in anything that is possibly going wrong with our program. We have always been interested, and we always have pursued this. There are certain problems, I believe which we testified to Monday which are inherent in running an SSI program, which I'm sure from the hearings you are aware of. I'm perfectly sure that counsel is aware of. We always run into these problems.

I think we'll run into them again because I said they are inherent in the structure, but please rest assured that we are doing everything that we possibly can to make sure that this program runs as smoothly and fraud-free as possible in the circumstances.

"Stolen Tax Money"

Some way should be found, Commissioner Lane commented during testimony by the federal witnesses, to make boarding home operators who misappropriate retroactive SSI checks to "disgorge" their unjust gains. Messrs. Machler, Reiber and Makin agreed:

COMMISSIONER LANE: Well, somebody said you should look in with a good deal of seriousness because there are people who have been cheating and who have these funds in their hands that should be forced to disgorge -- give it back.

MR. REIBER: I couldn't agree more, sir, and I think that the Social Security Administration couldn't agree more.

COMMISSIONER LANE: This is tax money, it has been stolen, in effect.

MR. REIBER: Once again, both myself speaking for myself individually, and the gentlemen who have accompanied me in the administration for which we speak, we could not agree more.

* * * *

MR. MACHLER: I would just like to say something, Mr. Chairman; it would seem that the thing we've been talking about and hearing about for the last week are violations not so much with the SSI recipient, but violations existing starting with proprietors of licensed boarding homes and that seems to be what the problem is. We've heard certainly about a satellite operation, we've heard about retroactive first checks being taken by unscrupulous proprietors. Where does the SSI recipient benefit from this sort of thing? It is my feeling, the Administration's feeling that what we need is more closely licensed, more direction in licensing and closer monitoring of the licensed facility.

MR. CHAIRMAN: By the State?

MR. MACHLER: By the State.

* * * *

MR. SCHIRMER: My question: Assuming -- has there ever been any federal prosecutions of a satellite operation that you are aware of?

MR. REIBER: Not in the State of New Jersey and, excuse me -- I'm going to answer your question, Mr. Schirmer, and Mr. Machler is going to elicit on it. At the present time there has never been a federal prosecution of a licensed boarding facility in the State of New Jersey for the problems that this Commission presently is investigating.

MR. MACHLER: I don't think the problem involving the satellite operation is inherent to the State of New Jersey, or I really can't comment on what's happening in the rest of the country in SSI, but I do know that the State of New York is very much involved in monitoring the licensed boarding homes that it pays an SSI supplement to a recipient residing therein. It is very active in that respect. It has three levels of care that it provides individuals.

* * * *

MR. SCHIRMER: But Mr. Machler, the fiscal responsibility rests on the shoulder of the Federal Government as far as New Jersey.

MR. MACHLER: The fiscal responsibility for SSI is making the initial determination of eligibility and recertifying to eligibility as law requires. Involved with the congregate care home operation it seems to be involved another process that requires a look by another State agency.

MR. SCHIRMER: And what are one of the difficulties in New Jersey tracking the satellite operations in simply that the Department, the State Department of Health which regulates these types of homes has no access to the Federal information, so in fact, we have an impossible task for the Department of Health.

MR. MACHLER: I would think, and Counsel would you please step in if I say something -- I would think if the requests were made properly to the Department of Human Services or to the Social Security Administration for the kind of information the Health Department needs to monitor that operation permission would probably be granted within the area covered by the Privacy Act because it is to the benefit of the State.

MR. REIBER: I believe Mr. Machler means within those areas that are not specifically forbidden to us under the Privacy Act.

The "Personal Allowance"

The next witness was Gerald S. Malanga, administrator of income maintenance in the State Division of Welfare. Counsel Schirmer first read into the record a letter from the Welfare Division to county and municipal welfare directors stating that the income standard for individuals in licensed boarding homes had been raised from \$298 to \$308 effective July 1, 1977. The letter stated that concurrent with this revision, the "incidental allowances" to boarders was to increase from \$25 to \$30 per month. But the letter turned out to be meaningless:

Q. Now, could you tell me whether that letter has any legal effect?

A. I do not believe so.

Q. Is it simply advice to the operators?

A. Yes.

Q. And if an operator didn't want to give the \$30 or \$20 or \$10, whatever he decided there is no way to legally force the operator to give the money?

A. In my opinion that is correct, and what's more, that is what we had been told.

Q. Can anything be done about this?

A. I presume regulations could be drafted to mandate the payment to that amount.

Q. Has this been a serious problem for a long time.

A. Yes.

Q. But, nothing has been done to date?

A. No.

Sampling Won't Find Satellites

Mr. Malanga testified that the state has no fiscal responsibility for the SSI program, except for a possible check on the sampling undertaken by the SSI "program integrity" unit. But the witness noted that SSI sampled 1,200 out of 88,000 recipients every six months. He described it as a "purely random sample, so it is highly unlikely that you would find any boarding homes in that sample." He agreed with counsel that it was not the type of sampling that would uncover mishandling of SSI checks by transfers of their recipients from licensed boarding homes to unlicensed satellites. Commission counsel:

Q. Mr. Malanga, this system as it sets up today, the Federal Government has the fiscal responsibility, the State Government has the social responsibility --

A. That's correct.

Q. -- through the County Welfare Department. Was it a better system prior to the inauguration of the SSI program when both parties, the fiscal and the social responsibility were combined in one department under the Department of Public Welfare as administered through the County Welfare Departments?

A. In my own opinion I would have to say yes. You see, you lose an awful lot of coordination between a Federal agency as opposed to a State agency which working directly with a local agency.

Q. Are you aware of whether there is any type of relationship between the SSI rate including the State supplement and the regulations which a licensed boarding home operator has to follow?

A. I know of no such relationship. All I can say is I know the Department of Health set up the standards. The rates were arrived at as I indicated earlier, I'm not sure how in the last few years, but I do not think they bear any relationship.

Q. So, if the Department of Health decided to implement new regulations, more stringent regulations, different regulations there would be no communication necessarily with the Department of Public Welfare saying, well, we are making it more difficult for them, but we have to give them more money?

A. I don't know if I can actually answer it. I don't know what would happen at that level. You are talking about Department of Health level now.

Q. But, right now there is no relationship.

A. Not to my knowledge.

Incomplete Projections of Need

Len Dileo, as director of Health Resources Development, is charged with compiling the State Health Plan which helps to determine the actual need in specified areas for health care facilities or beds. But Commission counsel sought to determine through him whether the projections of need or lack of need for boarding home or other sheltered care beds might fail to reflect a true need for beds for low income individuals:

Q. I think I'm going to try to sum up here because what I'm trying to say, if there was a great need for homes where the home catered to the needs of the ex-mental patient, could the fact that there was a great need for that home be hid because there is such a surplus of beds in the private sector where those homes were not even close to being filled to capacity?

A. Well, let me say it is possible, but clarify it by saying it seems as though what you are describing is something which we may have in the skilled nursing area. We may have existing beds which are available to private pay, but unfortunately, they are not available to the Medicaid recipient. As such we do not put them apart and our figures would show either need or no need, and not whether the bed is available for that specific category.

Q. That's, I guess, my point. You show an occupancy, they are not occupied, but you never really say then could the people that have to go into those type of boarding homes actually go in there if you are talking about a bed where you have to pay \$525 to occupy that bed and you only have \$308, you have a lot of available beds, but the type of beds that you can afford for \$308 do not exist.
A. That's right.

MR. CHAIRMAN: So, it is quite possible that there is a need, a crying need for SSI beds and the excess beds are those who can pay when you run the average, it appears to be adequate, is that about right?

THE WITNESS: That's right.

MR. CHAIRMAN: And you take the licensed facilities to determine generally whether there are sufficient beds?

THE WITNESS: Right

MR. CHAIRMAN: No definition of population, SSI or private?

THE WITNESS: At the present time, no.

MR. CHAIRMAN: No, If one of those facilities was generating beds through an unlicensed satellite, that would also delay the time when the need would impact your office sufficiently to be reflected in beds that are needed generally, is that a fair statement?

THE WITNESS: Yes, it is.

THE TESTIMONY - Fifth and Final Day

Top Officials Speak.

Commission Chairman Rodriguez characterized the final public hearing session as a "forum" for a general discussion of boarding home conditions by leading state officials whose responsibilities and activities extended to the problems of that industry. Present to testify were Attorney General John J. Degnan, Human Services Commissioner Ann Klein, Deputy Health Commissioner David A. Wagner, Senator Anthony Scardino Jr. of Bergen County, chairman of the Senate Institutions, Health and Welfare Committee; Steven A. Blader, assistant deputy public advocate; E. John Walzer, deputy state ombudsman for the institutionalized elderly, and Assemblyman Clifford W. Snedeker of Mercer County, speaking for the Nursing Home Study Commission.

Following are excerpts from their testimony:

Attorney General John J. Degnan

Mr. Degnan spoke as Chairman of the Governor's Cabinet Task Force on Boarding homes as well as New Jersey's top law enforcement official. As head of the Task Force, he welcomed the Commission's public hearings as a means of "focusing attention on what is clear to all of us to be a pressing problem in the state involving the inhumane treatment of some 40,000 people." He continued:

As Attorney General, I might point out to you in keeping with our past relationship we are eager to address those cases in which there may have been criminal implications attached to the conduct which you've addressed this week.... A great challenge faces us, as an Administration, and I suggest as the SCI is in governing recommendations as a result of these hearings, it is not enough simply to focus attention. Rather, the real pressing problem is to propose remedies and to see them through the Legislative process.

We are not wedded to a specific set of proposals. We do want to address the problem. The Governor wants to address the problem, and we think the Legislature is going to face up to it.

* * * *

We would propose that the Department of Health rate making be installed over licensed sheltered boarding homes and the level of SSI payments be increased to provide some economic incentive to private investment in what we think would be a legitimately profitable business which would both serve the interests of private investors and of Government in providing a social service.

* * * *

Some of us felt that there were some interim steps which could be taken, while that overall approach was being addressed. We all acknowledge, however, that these interim steps would not totally address the problem, and we would not hold them now to be a complete solution.

First of those interim proposals would involve a model municipal ordinance, and we would be glad to work toward developing and drafting that ordinance. Much of it is contained in the draft legislation which is appended to the Task Force Report.

The second approach would be the increased use of voluntary services. In discussing particularly with the people in Camden County, the procedure taken toward boarding homes there we discovered that a number of citizens on a voluntary basis had agreed to inspect the homes and deal with the individuals in the homes in a way which both insured that the quality of service would be somewhat increased and at least there would be some human contact between the people in the homes and those community people on the outside.

I think that cost in government today is a critical element of any reform suggestion which would come out of this commission or out of our Task Force.

It would be unrealistic for us, I think, to suggest that an extremely costly program is the only way to deal with this problem and that there are no short term steps which could be taken. I hope that in addressing the problem the S.C.I. will bear that in mind.

Human Services Commissioner Ann Klein

Commissioner Klein not only spoke as a member of the Governor's Task Force on Boarding Homes but also as the head of a department which probably has a more direct social impact on more individual citizens of the state than any other state agency:

I feel that in the course of these hearings you've really focused the attention of the State on a very, very critical issue that involves thousands of our citizens, and not only in terms of individual situations of abuse, but the kind of potential for abuse that there is inherent in the system. We have to indicate, I think, very clearly that we need a very systemic approach to really solving this problem.

* * * *

When the SSI system went into effect the maintenance program was separated from the social service program and people will have to go to the Social Security Office to apply for SSI payments...it is a very impersonal thing, all done by computer, and unless somehow there is a tie-up made with the social service system in the County, people in fact are not automatically linked up to any kind of social service system.

* * * *

Various attempts have been made to provide the means for people to live during a period when they are waiting for SSI checks. I think that some of the problems are... because we are dealing with a system which has a Federal here and a State here and a municipality there and no real tie-in -- it is not a system, it is a nonsystem.

* * * *

Obviously to me, there should be a way that people can get their SSI check in a much prompter fashion...I would suggest that possibly when we know that somebody is going to be leaving an institution and getting into the SSI system we should be

able to qualify them for eligibility before they leave, and then be able to trigger something so that they are -- they can be in the system right away.

* * * *

I think that whole business of how to get those that are eligible into SSI promptly is a very significant thing, and I don't know how we can address that as a State without a great deal of cooperation from the Federal Government.

I think the recommendation for increase in volunteers is a very, very sound one and it is something that we must put our efforts toward. We cannot do volunteer services without a considerable amount of training and improvement in the recruitment of volunteers and supervision of volunteers because we could get into the same system of abuse that occurs any place else if that program is not properly administered. But, I think that the key to really helping people aside from a higher level of sustenance is also having a friend. We, in the mental health system, we have some contracts with the Mental Health Association to provide exactly that kind of volunteer cooperation to assist patients who are coming out of the hospital and trying to readjust in the community. Under that program, people are trained and they are assigned a person for whom they are responsible and with whom they interact on a regular basis. And that I think, I believe has been an extremely successful program, although so far it has only been done in three counties and for only about a year that that contract has been in place. But, that's the type of thing I think that we ought to be expanding.

* * * *

We don't have a rate setting mechanism at all. Now, the only thing that sets the rate is how much is available to the client and how much he is able to pay and how much the sheltered boarding home can charge.

* * * *

The fact is, however, that we don't have a real rate setting mechanism which would be tied into the quality of care and the amount of care that is provided...the payment of cost related rates if the rates are appropriately set would provide sufficient funds to permit the present licensed sheltered boarding homes to comply with improved standards, and would also provide an incentive for unlicensed homes or single room occupancy to become licensed.

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Deputy Health Commissioner David A. Wagner

Mr. Wagner spoke as both Chairman of the Health Commissioner's Advisory Committee on Boarding Homes and as a member of the Governor's Task Force:

Similarly, a boarding home is not a home, and you have heard this week how very true that is. And the question is: How can you make a boarding home a home and how can you make a sheltered care facility a health care facility in the traditional sense of the word? Now, you can't make a sheltered boarding home a health care facility by paying at the rate of \$9.50 a day. It just won't work.

* * * *

You have to deal with the total problem and you must upgrade the boarding homes throughout the State. You must identify it, you must inspect them, and you must inspect them for more than just structure. You must inspect them for the sanitation and food they provide and the cleanliness of the linens and so on and so forth, that's a major undertaking and it is going to cost dollars.

Further, no sheltered care facility or boarding home can provide the kinds of service within the home that these folks need. Those services must come from a mental health system which is fully operational, has an outreach program, and must come from the willingness of the citizens of New Jersey to volunteer -- yes, volunteer their time to provide some means of service or friendship to people who live within those homes, as Commissioner Klein has pointed out. Aloneness is one of the

major problems that these individuals have that they won't have any more.

* * * *

There is no way that you can provide these kinds of services without provision of dollars through the tax base and I think that you will have to realize that if we are going to deal with this problem in a real way that we are going to have to provide additional dollars.

Senator Anthony Scardino Jr.

Senator Scardino, as chairman of the Senate Institutions, Health and Welfare Committee, was one of a number of leading legislators with whom the Commission maintained liaison throughout its boarding home investigation. He spoke as one of the most likely sponsors of legislation to implement recommendations by the Commission and other agencies to improve the boarding home system:

I noted with keen interest where the Chairman of this Commission, and rightly so, blames the industry for shunting former mental patients like chattel from place to place...while I accept the terminology "industry" I couldn't help but react and respond and say that it is not the industry alone that's to blame, it is all of us that were responsible for creating that industry in the first instance.

* * * *

...there is no question from what I've heard, there is a tremendous lack of monitoring. There is an obvious lack of supervision and inspection, most of all, an obvious lack of concern and attention. I have been a firm believer, and am even becoming more solidified in the belief that unless we start from the premise that we must take a hand-in-hand approach in dealing with anyone who leaves our institutions...that we must, in fact, obligate ourselves to walking them through a systematic program that we develop, and that we make sure that in the final end when they reach that threshold which will ultimately release them to the community in terms of what we call full normalization

and with all the confidence that they are going to have every opportunity of making it on their own...

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...There was a suggestion that the formula be modified so that a greater incentive be built into the program which would provide an impetus for the community based facility to reach out and bring in those people who released from our institutions...one of the basic fundamental reasons for the establishment of community mental health facilities was to address itself to the needs and services of those people who are released from the institution. But, we found out that that's not the case.

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...It is not that we don't welcome the challenge, I think what's disconcerting is that we are told too often in the first instance that this is what a program is going to do, and then sometime later we find out that its purposes have been altered and changed to a degree where it impacts very severely and negatively on the people we are trying to help. All at the expense of the taxpayer, obviously.

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I think it is clear that there has been no subject in my experience with the legislature that has received so much attention, so much effort as this particular issue, and I think that's magnificent, and I think we ought to do it in more instances and I welcome the S.C.I.'s participation in that respect and its cooperation in working with the legislature so that we can together resolve our problems.

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Steven A. Blader, Assistant Deputy Public Advocate

Mr. Blader spoke for Public Advocate Stanley C. Van Ness, who was recovering from a serious illness:

The Department of Public Advocate shares with the Commission the concern over conditions at licensed and unlicensed boarding homes in the State. Our particular concern is for the causes of former mental patients who constitute the large majority of boarding home residents.

As you no doubt are aware, our Division of Mental Health Advocacy provides class action representation for mental patients and has been litigating for constitutional rights of former mental patients to adequate community of care. Case work done by the Division in this regard supports the pattern of boarding home abuses you have heard here this week. We have found that abuses in boarding homes are a factor of two functions which are endemic to boarding homes. The residents are totally dependent upon the proprietor for their existence. Many proprietors are more interested in their profit margin than the patients placed under their protection. Even when the proprietor is sincerely concerned about the welfare of residents, we find deficiencies -- because the reimbursement for boarding home care by the State is totally arbitrary.

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...it is clear that under our present system of privately owned and operated boarding homes the treatment of residents depends to a great extent on the operators of the home. In this regard we believe that every individual who desires to obtain a boarding home license from the State should be thoroughly investigated to insure the public of the operator's character and integrity.

We also believe that every boarding home operator and employee should be trained to perform the services which are required to be rendered at the facility. In this way the public would feel more confident in the quality of boarding homes that house thousands of our State's citizens. Our Department also recommends that there be a more thorough and more direct inspection of boarding homes licensed by the Department of Community Affairs.

* * * *

...In addition to safe and efficient living conditions we feel that it is equally important that boarding home residents be provided with access to social and rehabilitative services. In this regard we recommend that community based social services and recreational centers be established or contracted for boarding home residents. At the present time residents of boarding homes, especially former mental patients, are given their daily medication and then left to the homes' sole recreational activity, the TV set. We believe that community based recreational centers will provide a diversity of activities for the dependent boarding home population that will enrich their lives and provide a stimulus for rehabilitation.

* * * *

...We want to focus on providing services, personal care services, health related services and nursing homes for individuals that require those services, but the main thrust for housing boarding home residents should be retained in homes licensed by the Department of Community Affairs. There should be stricter inspections, closer review of the operation of these homes and closer review of the operators. We must also note that the funds available for boarding homes licensed by the Department of Community Affairs are also unrelated to the operating costs of such homes. A significant portion of residents of boarding homes licensed by the Department of Community Affairs subsist solely upon SSI payments. I believe the figures that there are 30,000 residents in homes licensed by the Department of Community Affairs, 25,000 of those residents subsist upon SSI payment alone.

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E. John Walzer, Deputy Ombudsman for Institutionalized Elderly

Mr. Walzer spoke in the absence of Ombudsman John Fay, who was ill and who, as a state Senator, had become concerned about boarding home conditions as the chairman of the Nursing Home Study Commission:

These hearings have clearly demonstrated that the problem is a massive one involving frail, helpless people, a lack of adequate facilities and services and a disheartening disarray of responsibilities, laws and financing mechanisms among the State Agencies. One of the most frightening aspects of this problem situation is that no one really knows how many people are involved, how many facilities are involved or even where the people and the facilities may, in fact, be located. The fundamental message of these hearings is that a large number of the elderly and de-institutionalized people need much more than a minimal monthly check from the Social Security Administration and the present regulatory system if they are to, in fact, be secure in their persons and properties.

* * * *

...Clearly it must be recognized that the problems in the boarding home context are of national and state proportions, not just in New Jersey and not just in Asbury Park, Atlantic City or some other specific portion of our State.

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...The inadequate methods by which fraud and abuse under the SSI system are checked and the breakdowns in communication which this system encourages must not be permitted to continue. In terms of law enforcement activities at all levels of Government, including the Federal Prosecutor, the State Attorney General and the County Prosecutor, we must have a prime focus on those people who are preying on the elderly and the deinstitutionalized in our society.

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...Financial accountability or the lack thereof has really been highlighted this week. These hearings have certainly portrayed an endless picture of horrible recordkeeping which, in fact, allows the perpetrators of this fraud to escape punishment on the basis of, or as a result of, their own negligence.

Standards for basic recordkeeping must be emphasized, must be put on the books and then enforced strictly. Further, the IRS which to some extent has been the whole Federal component of concern for this area that the Federal component must be involved in this fraud problem, it is of national proportion. But specifically now the IRS should make certain that it periodically audits the operators of boarding homes.

* * * *

Assemblyman Clifford W. Snedeker

Mr. Snedeker spoke for Assemblywoman Mary Keating Croce of Camden, chairman of the Nursing Home Study Commission, which went out of existence on June 30, 1978, the final day of the Commission's public hearings:

There is no training requirement for staff in nursing homes, and we know there is none therefore in the staff in boarding homes. There has to be some sort of training program established by the Department because there is medication dispensed in these institutions and in these homes, and we feel that those who are dispensing this have no knowledge of how much is being dispensed, what the right quantity is or whether or not that person should be taken off and put onto another medication.

* * * *

We have no Bill of Rights for those in boarding homes as we do in nursing homes. We should have that. They have rights. There are more people, no doubt, in boarding homes in the State of New Jersey certainly than in nursing homes. Yet, we are going to find them only when we find the problems, and that's not the way to run the State. We should not be faced with finding problems after they exist. It is our responsibility, both in the legislature and in other forums of the State, to know what the problems are before they exist and prevent these problems from existing.

Concluding Statement by Chairman Rodriguez

The five successive days of public hearings, from June 26 through June 30, ended with the following summary statement by the Commission chairman:

The Commission now ends one of its most extensive and complex public hearing inquiries. The record of these proceedings literally bristles with evidence of widespread and repelling abuses and irregularities in the boarding home industry, confirmation of the conflicts and inadequacies of the laws and regulations governing that industry and admissions of abject failure by the responsible bureaucracies to fully implement and enforce even the most minimal of standards.

Testimony taken from almost 60 witnesses, supplemented by the introduction of 187 factual exhibits, has outlined the managerial deficiencies and the individual cruelties that beset the system. The Commission will take this voluminous hearing record under immediate review. Within the next two months we hope to complete the difficult task of compiling the Commission's recommendations for expeditious corrective action that is so urgently essential to the welfare of thousands of physically and mentally enfeebled individuals trapped in boarding facilities.

Trapped is the one word that applies with the most tragic accuracy to the elderly and disabled who must reside by no choice of their own in boarding homes. This was made clear at the outset of our hearings when the Commission put into the record a testimonial exposition of who and what constitutes New Jersey's boarding home world. As the Commission stressed throughout these sessions, our dominant concern is about the adverse impact of these deficiencies on the most vulnerable of the 40,000 human beings who are the actual and prospective victims of the system.

These 40,000 individuals reside in facilities of widely varying but largely questionable quality and which function under a self-defeating hodgepodge of laws and regulations. The Commission's investigation centered on the vast majority of boarders who, because they are old, blind or disabled,

qualify for the Federal Social Security Administration's Supplemental Security Income -- or SSI -- benefits. These unfortunate SSI eligibles are a large part of the 10,000 residents of about 275 sheltered care homes licensed and regulated by the New Jersey Department of Health, and they represent most of the 30,000 who live in 1,500 so-called "unlicensed" boarding homes or rooming houses. Most of these 1,500 facilities are registered by the State Department of Community Affairs and others by local authorities if at all. While registration for reasons of regulation and inspection is a statutory requirement for these 1,500 places, the fact that they are commonly classified even by administrative officials as unlicensed suggests the dangerously superficial nature of the lax controls under which they do business.

Our public hearings early-on emphasized also the increasing presence in the boarding home population of former mental patients who are being shunted too abruptly, and with little or no follow-up attention, from round-the-clock custodial confinement into an unreceptive, loosely supervised, frequently unhealthy and sometimes physically hazardous non-custodial environment. This trend coincides with federal and state commitments in recent years to a policy of "deinstitutionalization." However, while this process was -- and still is -- conceptually humane and progressive, it has been implemented -- as the public record of these hearings will sadly attest -- without sufficient preparation for the transition of these former mental patients into the community.

The major efforts to cope with this critical transition situation have fallen alarmingly short of their objectives, as the Commission's hearings have confirmed. The hospitals for example instituted a state-funded Family Care Program to provide a bridge between 24-hour custody of mental patients and their transfer into licensed boarding homes, until the commencement of SSI lifesupport payments to these individuals. Under this SSI funding arrangement, the Social Security Administration has paid \$177.80 a month to eligible aged, blind or disabled, to which the State

added \$130.20 -- for a total of \$308 -- for recipients residing in Health Department licensed sheltered care homes. And the State added \$22.20 -- for a total of \$200 -- for the SSI residents of "unlicensed" boarding homes.

A sorry spectacle of the manner in which certain greedy boarding house operators were allowed to manipulate these inadequate programs -- with terrible consequences for the more helpless residents of their facilities -- has been portrayed in this Senate chamber during the past four days.

The litany of deprivations and degradations inflicted on a large number of clients of the boarding home system unfortunately require too many hours to compile for the public record. The Dickensian odor of the testimony about these abuses was particularly accented by evidence of the vicious quest by some operators for excessive profits at the expense of the more helpless of their boarders.

The testimonial proof of these flagrant abuses came timidly but bravely from harassed boarders and with hostile reluctance from more culpable operators. Two of the latter refused to testify about their activities, utilizing instead their constitutional protection against self-incrimination.

Testimony by oppressed and oppressors told, in part, how:

-- One boarding home operator duped a blind woman out of a \$6,000 savings account and diverted to his own personal use the bank accounts of another frail boarder.

-- An operator abruptly -- and secretly -- transferred residents from his licensed boarding home to unlicensed satellite facilities to make room for new boarders eligible for higher SSI checks than residents of unlicensed facilities receive.

-- One hapless boarder was temporarily moved to another operator's facility to pay off a \$115 debt.

-- A transferred boarder literally got lost in the shuffle, unknown to his family, and was subsequently found only after days of searching by his sister.

-- Boarders with child-like trust turned over large retroactive SSI checks to operators sight unseen, often resulting in lucrative double payments to operators for room and board already paid for by the State.

-- Rotten meat and beans purchased at bargain prices was part of the diet at one facility.

-- A large sampling of boarding homes dished out substandard meals at an average cost that plummeted as low as 83 cents per occupant -- compared to a relatively bare-bones cost of about \$2 per resident in nursing homes.

-- Cheap food, inadequate clothing and generally unsanitary conditions reduce operational costs to such an extent that some boarding homes rolled up excessive profits -- of almost 50% of gross in one case -- while also paying high salaries to the beneficiaries of these excessive profits.

-- Some operators who fed their clients for less than a dollar a day reaped net earnings of from \$58 to \$574 per day.

-- The boarding home corporation of one entrepreneur made more than \$100,000 profit -- or 34% of gross revenues that included pirated retroactive SSI checks for services already funded by the State. He and others of his family at the same time gave themselves an aggregate of \$100,000 in salaries.

-- Another operator's profits were swollen by more than \$9,000 from in-house vending machines, where he recaptured much of the \$25 in personal funds he was required to give to residents.

The Commission's investigation was impeded from the outset by the deplorably unbusinesslike condition of the books and records of some boarding home operators. In many cases receipts and vouchers -- if such standard business forms were used at all -- were kept in boxes or paper bags. During the public hearing interrogation of one operator, the Commission introduced as an exhibit a large brown paper bag stuffed with the scribbled records of his facility. In fact, the condition of the books and records in most of the boarding homes examined was described by one veteran staff accountant as the worst he had encountered in his professional career.

However, a laborious reconstruction of these slapdash records enabled the Commission to draft a revealing picture of the highly profitable nature of some of those engaged in the boarding home business. This phase of our inquiry, in fact, strongly suggests that money per se may not be the most essential factor in any recommended proposals for reforming this industry.

For example, listen to these excerpts from a summary of earnings of selected operators as compiled by our Commission's accountants:

-- L. & S. Pliner, whose food costs for boarders averaged 87 cents a day, grossed \$620,000 paid out \$107,000 in salary, and netted \$101,000 profit, or 34% of gross -- a daily net of \$574.

-- Helen McKenna, whose average cost of feeding her boarders came to \$1.46 a day, grossed \$175,000 and netted \$57,000, or 33%. Her net earnings amounted to over \$158 per day.

-- Alton Thomas, who fed his boarders at the rate of an average cost of \$1.68 a day, netted more than \$135 a day.

-- Joseph Kube, whose meal costs averaged \$1.55 a day, earned a net of more than \$100 a day...

Our public hearing record is abysmally replete with evidence of ineffective administration of the laws and regulations supposedly governing this industry. Bureaucratic management, the testimony confirmed, was riddled with inefficiency, laxity and worse at both the Federal and State levels.

The Social Security Administration should not be paying out SSI checks to boarders without knowing whether the recipient of these checks actually reside at the addresses to which the checks are mailed -- including checks ranging into several thousands of dollars for retroactive payments that often have ended up in an operator's accounts. Admittedly, the SSI program was confined by law to a fiscal rather than a social obligation -- but evidence of the manner in which that narrow area of responsibility was conducted raises serious questions about its integrity and vulnerability. At the State level, one authority in the boarding home licensing field admitted that his agency had "goofed up" with respect to certain allegations of misconduct in a boarding home.

There will be no easy answers to the extremely critical problems that plague the boarding home industry of this State. Already several official studies have been completed and recommendations made that have yet to generate any meaningful

acceptance. The Commission feels that -- as difficult as its investigation was -- its resolution to submit to the Governor and Legislature as quickly as possible its proposals for boarding home reforms will be an even greater challenge. But this is a commitment the Commission is proud to make and is equally confident of fulfilling.

For the present we believe that there are at least two immediate corrective steps which can be undertaken.

Considering the vulnerability of the retroactive check situation which finds SSI checks so often being misused to quote reimburse unquote an operator who has already been paid for his services to a client -- an immediate correction should be made. The State should promptly negotiate an "interim maintenance" agreement with the Federal Government so that it can receive these retroactive checks first and deduct their costs before passing on whatever balance is actually due a recipient.

The Commission also listened with interest this morning to comments concerning volunteer programs as an augmentation to a sorely lacking social service program. Such a concept provides the public with the significant opportunity to provide a resource other than the tax dollar. That resource is personal commitment. We do not think it is naive to believe that there are probably many people in our society who are ready to help. But the fact that the availability of these programs is almost unknown leads us to believe that the Legislature -- with the cooperation of the Department of Human Services -- should quickly consider immediately funding a statewide volunteer program which will possess sufficient resources to tell potential volunteers that it exists.

As I stressed at the beginning of this statement, the Commission now intends to concentrate its full attention on the exceedingly difficult problem of how best to make the boarding home industry (or some equivalent if necessary) work better for the hapless aged and infirm people who are its involuntary clients.

As we have noted previously there is no desire by the Commission to harm an entire industry because of the improprieties of a portion of that industry. But in this sensitive matter of a public social function being operated for profit by private entrepreneurs, no boarder should be confronted with any abuse anywhere and no public tax dollar should go to even a single private operator for diversion to an improper purpose.

RECOMMENDATIONS

AND

COMMENTARY

RECOMMENDATIONS AND COMMENTARY

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RECOMMENDATIONS AND COMMENTARY

INTRODUCTION

The detailed recommendations that follow reflect the Commission's desire to help resolve basic problems causing the most serious abuses in New Jersey's boarding home industry. They are designed to expedite the development of more humane, secure and rehabilitative surroundings for elderly and infirm boarders. At the same time, the Commission's proposals are submitted with a belief that they can be enacted and implemented realistically from the standpoint of available personnel and limited funds.

The chronology of the recommendations places highest priority on the need for integrity and efficiency in the governmental procedures by which boarding homes are licensed and monitored. Only under adequate governmental supervision and surveillance can a proper balance be achieved between the legitimate profit motivations of boarding home operators and their equally essential obligations to serve the more fragile boarders among their clientele.

The most important administrative step recommended by the Commission requires centralization of licensure and supervisory controls over boarding facilities. As in New York and other states where significant boarding home reforms have been instituted, the Commission recognized that social services rather than health services should be the primary concern. These concerns, in New Jersey, call for concentration of controls in the Department of Human Services.

As illustrated by the recommendations supporting this centralization concept, the proposed placement of jurisdiction imposes licensing and monitoring obligations on a department which possesses the most expertise in the area of social services. Moreover, it is the Department of Human Services, through its Division of Mental Health and Hospitals, which controls the flow of de-institutionalized former mental patients from hospitals to the community. These individuals make up most of the boarding home population which demands special attention.

SUMMARY

A summary of the recommendations best illustrates the Commission's objectives and their order of priority:

I. Jurisdiction (P. 235).

-- A two-tier licensure system under which all Boarding Homes will be regulated -- Level I to cover Licensed Boarding Homes for Supervisory Care, as defined, and Level II to include other licensed Boarding Homes, as defined. (P.235). It is immediately essential to identify and regulate all boarding homes providing varying degrees of service, ranging from board and light housekeeping to supervisory personal care. Such widened licensure will ease the transition to a new and more adequate regulatory system.

-- All regulatory jurisdiction to be transferred to the Human Services Department. (P.237). Centralization is the most efficient mechanism for providing a suitable framework to supervise the suggested program and to fill existing regulatory voids. The Department of Human Services already has agencies and personnel upon which to build a centralized system, including transitional family care, welfare, public funding and community services. For whatever initial expansion of existing services is required, transfers of existing experienced personnel and operations can be made from Health and other departments. However, in recognition of an existing capability which does not lend itself to transferal, rate-setting will be a primary requirement left to the Health Department. (P.238). Community Affairs Department will continue to inspect rooming houses, hotels and other facilities which are not classified as licensed boarding homes.

-- The State must certify residents who need supervisory services (P.239). Certification of residents is required to redress the paradox of a shortage of supervisory care units caused by the utilization of these units by residents who are not in need.

-- Immediate identification of the whereabouts of all SSI recipients with mental health disabilities. (P.239). Only through identification can the hundreds of misplaced former mental patients be located and more closely monitored pending transfer to more appropriate surroundings.

-- An immediate survey to provide statistical data on availability of Boarding Home space and profiling problems particularly relevant to former mental patients entering boarding homes under de-institutionalization. (P.240). The State Health Department's State Health Plan is inaccurate and misleading for the purpose of boarding homes. A more accurate assessment of needs generally and, in particular, the needs of former patients of mental institutions is essential.

-- The Health Care Facilities Financing Authority should provide low interest financing for increased private construction of boarding facilities. (P.241). The availability of boarding home beds is especially crucial at this point in time and traditional sources of financing are often insufficient for the private health care facility.

II. Regulatory Recommendations (P.242).

NOTE: The Commission's public hearings disclosed the inadequacy of the existing regulatory framework, a lack of aggressive enforcement, and cases where reflexive enforcement was obviously not in the best interests of the residents.

-- Regulations of Licensed Boarding Home operators should contain complete, clearly stated definitions of their duties, particularly with regard to any responsibility for supervisory and personal care. (P.242). The Commission urges adoption of certain definitions of supervision and personal care to help overcome the paucity of regulatory guidelines on conduct and standards for Licensed Boarding Home operators.

-- A licensed operator must notify appropriate authorities when a boarder residing in his facility is in need of their specialized services. (P.243). Despite the limited capacity or motivation of boarders to reach

out for help, operators are not obligated presently by any specific regulation to notify an appropriate agency of a resident's needs.

-- Operators must qualify for licensure. Operational deficiencies demonstrating a qualification weakness should require immediate remedial training. (P.243). The Commission's investigation revealed many operators had little formal education, no experience in maintaining even rudimentary business accounts, no proven capability in the management of a Boarding Home, no training in the administration of medication, and little or no comprehension of the problems of handling residents in need of supervisory care, especially former mental patients.

-- The new Boarding Home Bureau shall staff and maintain annual and spotcheck inspections to assure compliance with all regulations. (P.245). The Commission's investigation and public hearings documented the inadequacy of the present system of licensed boarding homes surveillance.

-- The present manual of standards should be expeditiously revised with particular attention to prescribed penalties. (P.246). The Commission's hearing depicted the ineffectiveness of the Manual of Standards, particularly from the perspective of its lack of prescribed penalties for violations.

-- Operators of Licensed Boarding Homes must keep adequate records on standardized forms reflecting every aspect of specific functions, and in full accordance with generally acceptable accounting practices. (P.246). The records presently required to be maintained by a licensed Boarding Home operator are so minimal and unspecific that they are virtually useless for regulatory purposes. Specific standardized forms and the information which they will contain are described in detail in the report.

-- Hearings on violations of regulations by operators must be expedited and implemented according to proper legal standards, particularly in the use of reports by inspectors as evidence and in testimony by inspectors based on their surveillance. (P.249). Present hearing procedures indicated an inability on the part of the State to prove its allegations due primarily to a lack of presentable, substantiated evidence. These hearings often tend to become contests of time-wasting endurance rather than of legal proofs. This recommendation would streamline the hearing process.

-- A definitive, efficient internal system should be established within the Boarding Home Bureau for the flow of the complaint -- violation process. (P.250). Present intra-office disposition of inspection and complaint reports and decisions is slow and circuitous

-- Transferring boarders from one place to another without the boarder's permission is prohibited. (P.250). An operator must notify appropriate officials, including a designated social worker, of a forthcoming relocation. The investigation confirmed a "transfer traffic" in which boarders were abruptly switched from one Boarding Home to another according to the whims of the operators rather than the desires of boarders.

-- If a Boarding Home must be shut down for any reason, ample advance notice must be given to affected residents or an assigned social worker. (P.251). Remaining in home which has lost its license or being arbitrarily transferred from a closed home to another home could be detrimental to a resident's welfare.

-- An operator who employs a resident at the facility must notify state authorities in advance of the conditions of employment, including compensation and type and hours of work. (P.252). In order to protect both the resident who works for an operator and other residents in the facility, the regulatory agency must be notified of all cases where a resident is employed and must certify that employment as being in the resident's best interest.

-- An operator must provide diversified recreational activities for boarders. (P.252). Experts testified that recreational activity is particularly helpful in easing a former mental patient's transition to a normal community environment.

III. Mental Hospitals (P.253).

NOTE: Because a substantial proportion of the Boarding Home population is composed of former mental patients, certain particularized problems arise because of inappropriate placement and the inability of operators to deal with specialized needs.

-- Prior to the release of any patient from a mental hospital, a written determination must be made as to the degree of supervisory or personal care such patient requires, if any. (P.253). Without a determination as to the required standard of care, the danger will persist that a patient requiring supervision will be located where such care is either unavailable or inadequate.

-- If a person released from a mental hospital is inappropriately placed due to circumstances beyond the control of either hospital or placement authorities, the Boarding Home Bureau and the County Welfare agency must be notified in writing of this action. (P.254). Highest priority must be attached to a program of constant, personal contact with a misplaced individual pending relocation in proper surroundings.

-- When a person is released from a Mental Hospital to a licensed Boarding Home, a formal, written agreement must be signed by the Boarding Home operator stipulating the operator's commitment to providing the services that conform with the hospital's determination of the patient's needs and the available community services to which the resident should have access. (P.255).

-- Mental Hospitals in the process of discharging patients must include available Community Mental Health Centers in their network of required contacts in behalf of such individuals. (P.255).

IV. Welfare Agencies (P.256).

NOTE: The Commission appreciates that there are certain social services which can best be provided at the local level.

-- County Welfare agencies must maintain files for each SSI boarder in their area, assign a social worker, maintain contact and record and notify authorities of any change in a resident's needs or address. (P.256).

-- Interim welfare assistance paid to prospective SSI boarders should be at levels adequate to maintain the supervisory care or other services certified as necessary. (P.257).

CONTINUED

3 OF 4

-- Model programs should be developed, utilizing volunteers, to improve social services for boarders. (P.258). The Camden County Welfare Office coordinates a successful program of volunteers that is a model for supplementing social workers and otherwise helping to improve the delivery of social services to boarders.

V. Social Security Administration (P.258).

-- A formal procedure must be worked out between the Department of Human Services and the Social Security Administration whereby reimbursement can be assured when mental hospitals provide interim assistance for a boarder who is a prospective SSI recipient. (P.258). The procedure presently employed by local welfare should serve as a pattern.

-- The investigative procedure utilized by field workers must be augmented by training in surveillance techniques designed to identify problems in program integrity. (P.259). The Commission's hearing illustrated that the SSI field representatives were deficient in their attempts to recognize fraud.

Recommendations in Detail

I. JURISDICTION

RECOMMENDATION - J1
Licensed Boarding Homes

All New Jersey congregate residences providing meals should be deemed to be Boarding Homes. Any Boarding Home should be licensed and inspected as such. Any Boarding Home providing personal or financial services should be considered a Licensed Boarding Home for Supervisory Care and should be licensed and inspected as such.

Comment:

The Commission proposes a two-tier system* of licensing and inspection. Level One would consist of Licensed Boarding Homes for Supervisory Care and Level Two would consist of all other Licensed Boarding Homes. For clarity, what constitutes a Boarding Home subject to licensure must be defined. The Commission defines a Boarding Home as:

any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy and where food and/or food services are available to the occupants. This definition shall include any residential hotel or congregate living arrangement but shall not be deemed to include any hotel, motel, or established guest house wherein units of dwelling space are offered for limited tenure only. Nor shall it be deemed to include any dormitory owned or operated on behalf of any non-profit institution of primary, secondary, or higher education and operated to provide housing for students of that institution.

*See Chart, P.235-a. This recommendation addresses only Boarding Homes. Rooming houses have been defined by the Attorney General's Advisory Committee. That Committee has also made recommendations pertaining to rooming houses. The S.C.I. subscribes to these recommendations.

TWO-TIER LICENSING SYSTEM
FOR BOARDING HOMES

	<u>Jurisdiction and Licensing Auth.</u>	<u>Services</u>	<u>Inspections</u>	<u>Size</u>
Boarding Home for Supervisory Care (LBHSC) (Level One)	Human Services (Boarding Home Unit)	Operator obligated to provide supervision and personal care as defined by regulations for home.	Yearly and spot checks for compli- ance with regula- tions	2 or more resi- dents unrela- ted to opera- tor
Licensed Boarding Home (LBH). (Level Two)	Human Services (Boarding Home Unit)	Operator (obligated to provide or (providing) meals and is obliga- ted to notify welfare if resident needs super- vision for resident's own welfare. Operator can provide more but is under no obligation	Yearly and spot checks for struc- tural conditions and basic living conditions of re- sidents.	2 or more resident- unrelated to opera- tor

All such Boarding Homes would be licensed and inspected under the S.C.I. recommendation.

There are homes included in this group which, as noted, will provide services other than board and these should be placed in a separate (Level One) category called Licensed Boarding Homes for Supervisory Care (LBHSC) which would be defined as follows:

any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy where food and/or food services are available to the occupants and where personal or financial services are provided to the occupants thereof. This definition shall include any residential hotel or congregate living arrangement but shall not be deemed to include any hotel, motel, or established guest house wherein units of dwelling space are offered for a tenure under one month. Nor shall it be deemed to include any dormitory owned or operated on behalf of any non-profit institution of primary, secondary, or higher education and operated to provide housing for students of that institution.

Included in the above definition are the concepts of financial services and personal services. The Commission has essentially adopted the Advisory Committee's definitions of personal services and financial services with the deletion of reference to food service:

The term "financial services" shall mean any assistance permitted or required by the Commissioner to be furnished by an owner or operator, to a resident in the management of personal financial matters including but not limited to cashing of checks, holding of personal monies for safekeeping in any manner, or the assistance in the purchase of goods or services with a resident's personal funds.

The term "personal services" shall mean any services permitted or required by the Commissioner to be furnished to a resident other than shelter and shall include but not be limited to personal assistance in dressing, bathing or other personal needs.

The S.C.I. contemplates that all rooming houses, hotels and other congregate dwellings not covered by the aforementioned definitions will continue to be inspected and/or licensed by the agencies which presently control them, the Department of Community Affairs and local authorities. Differing licensing standards and inspection requirements and procedures will be addressed to each proposed level but these standards will be established by one agency (see Recommendation - J2). The Department of Health will undertake solely the formulation of rates for Level One homes. The Commission has considered at length the question of whether bifurcation would create the same paradox depicted in the public hearing -- operators of unlicensed facilities penalized for supplying supervisory care which should only be supplied by a licensed facility. On balance the S.C.I. is of the opinion that it is more desirable to specifically identify and aggressively regulate those homes providing some degree of care. Thus the Commission suggests the concept of an LBHSC (Level One Home). Specific regulations should be drawn, however, which would allow the operator of a licensed Boarding Home (Level Two Home) to provide a modicum of care where requested and after required notice to the appropriate authority that the resident may be in need of a higher level of care.

RECOMMENDATION - J2
Regulatory Authority

Licensing authority and all other regulatory jurisdiction, with the exception of rate-making, should be placed in a new Bureau within the Department of Human Services.

Comment:

Centralization of departmental control is the principal recommendation of the S.C.I. Many problems in the Boarding Home industry have been created and abetted by the number of governmental authorities, state and federal, which attempt to address those problems. The most sensible approach in terms of sound precepts of public administration is the placement of as much authority as possible in one place. Since the issues are primarily social, the Commission recommends the creation of a Boarding Home Bureau within

the Department of Human Services. The only aspect of the program which would be administered by any other department of State government would be the rate setting function. The Department of Health, because it has the present expertise in place for this complex duty, would undertake rate setting with regard to Boarding Homes. The Department of Health's licensing and inspection function would be shifted to the Department of Human Services. The Department of Community Affairs would continue to have jurisdiction over rooming houses which do not provide board. Any present Department of Community Affairs jurisdiction which would concern either Level One or Level Two homes, as previously defined and described, would be shifted to the Department of Human Services.

RECOMMENDATION - J3
Rate-Setting

The Department of Health should set rates for all Licensed Boarding Homes for Supervisory Care (LBHSC's).

Comment:

As has been previously stated, the Department of Health presently possesses the resources to set rates for LBHSC's because it does the same for various other health care facilities. This function should be undertaken by that Department but only after the preliminary initiatives described below.

Controversy exists over whether operators can provide adequate services with funds available through rates imposed according to the size of SSI payments received by boarders. The Commission's audits of Boarding Home accounts did show that actual costs depended on the size of the home and quality and quantity of services offered.

A realistic rate-setting structure should provide a strictly defined reasonable compensation for operators based on the services required and offered by them. Such a rate structure presupposes a thorough fiscal analysis to determine and define reasonable costs of operating a Licensed Boarding Home. The Legislature's Office of Fiscal Affairs is compiling an analysis.

Once a rate structure is imposed based on specific reasonable cost factors, a financial monitoring procedure should also be imposed to insure that excessive profits are not being pocketed through the failure of an operator to meet required standards of service, as prescribed.

RECOMMENDATION - J4
Certification of Need

Since the proposed rate-setting mechanism will reflect reasonable costs of required services, residents of Boarding Homes must be certified by the State as requiring these services.

Comment:

At present an individual need not require supervisory services in order to reside in a Health Department-Licensed Boarding Home. In addition, SSI payments, which are higher at such Licensed Boarding Homes than at so-called "unlicensed" facilities, are based only on where a person resides and not whether the person requires supervisory services. These conflicting factors have contributed to a shortage of Licensed Boarding Home beds.

The Commission contemplates that one of the duties of the new Boarding Home Bureau will be the certification of the need of the particular resident for LBHSC care. This task may be of substantial proportion at the outset of the program. However, it could be contracted out to private agencies or completed with personnel temporarily assigned to it. If placements are appropriate thereafter the undertaking should be easily manageable. The important function remaining will be visits to Boarding Homes after requests by operators thereof to certify residents as being in need of LBHSC care.

RECOMMENDATION - J5
Location of SSI Recipients

The Department of Human Services must immediately determine the whereabouts of all recipients of SSI payments based on mental disability to ascertain whether the quality of care, if any, comports with the degree of disability.

Comment:

Over the past decade hundreds of former mental patients have been placed in "unlicensed" Boarding Homes despite the fact that they needed licensed Boarding Home care. Presently there is no mechanism under Health Department jurisdiction to identify such improper placements. Once identified, improperly placed boarders requiring supervisory care should be transferred to Level One Boarding Homes (LBHSC) as soon as space becomes available. Until such transfers, the responsible State agency should require periodic check-up visitations by a certified social service worker for the protection of the misplaced boarder.

RECOMMENDATION - J6
Boarding Home Bed Needs

The Human Services Department agency in charge of licensed Boarding Homes must promptly obtain and compile statistical data to provide a comprehensive, updated picture of the availability of Licensed Boarding Home beds and the demand for same.

The compilation of this statistical profile of Licensed Boarding Home resources and needs should particularly identify problems relative to the transition of former mental patients to the community via the Boarding Home route.

Comment:

There is no accurate assessment of the need for Licensed Boarding Home beds that are available to persons discharged from a mental hospital or to persons receiving public funds, or both. The State Health Plan projects a surplus of licensed Boarding Home beds but its statistics are misleading. This inaccuracy was illustrated at the Commission's hearing by witnesses for agencies which are responsible for placing former mental patients in Boarding Homes. The inaccuracy is due to two factors: The overlooking of the resultant increased demand for Boarding Home space as a result of the de-institutionalization of former mental patients and the concomitant discrimination on the part of many operators which denies beds to this type of resident.

An accurate assessment of the need for beds is clearly necessary for proper planning.

Statistical information specifically concerning the availability of Licensed Boarding Home space for former mental patients is minimal. In fact, no agency is charged with a responsibility for gathering data on the number of people in need of Licensed Boarding Home care, the number and location of available beds, the concentration of former mental patients in particular areas, the quality of individual licensed Boarding Homes, the financing details on these homes, or the projected need as a result of discharges. Statistical information is essential for proper planning and development. Such information should be made available to all appropriate officials to increase the effectiveness of their efforts on behalf of both boarders and operators.

RECOMMENDATION - J7
Capital Financing

New Jersey's Health Care Facilities Financing Authority (HCFFA) should be utilized as a mechanism for the capital financing of new Boarding Home construction.

Comment:

Financing for new Boarding Homes in the private marketplace, if the nursing home experience is analogous, will be difficult and costly. HCFFA should be encouraged to provide low interest financing for new Boarding Home construction.

The Commission's hearings demonstrated that the availability of licensed Boarding Home beds for certain type of individuals, particularly former mental hospital patients, is grossly inadequate. A disheartening paradox is that there is an apparent surplus of beds in many Boarding Homes which refuse to accept former mental hospital patients or boarders with limited financial resources.

As a result of this situation, placement agencies have been forced to assign persons requiring supervisory care in Boarding Homes which are not licensed to provide such care. As previously noted, such Boarding Homes are not qualified, financed, regulated or otherwise monitored to insure that residents requiring supervisory services actually receive those services. This fact is a root cause of Boarding Home abuses. The availability of rooms for former mental patients, particularly, is crucial to an effective continuation of the de-institutionalization concept.

II. REGULATORY RECOMMENDATIONS

Introduction

A second generic area which clearly requires restructuring relates to Boarding Home regulations. The Commission's public hearing disclosed the inadequacy of the existing regulatory framework, a lack of aggressive enforcement, and several cases where reflexive enforcement was obviously not in the best interests of the residents. Any proposed set of regulations should be fair, understandable, enforceable and, above all, directed at the wellbeing of those residents who must look to government for their safekeeping.

RECOMMENDATION - R1 Operator Duties

Regulations governing the obligations of licensed Boarding Home operators should contain complete and clearly stated definitions of their duties, particularly with regard to their responsibility to provide supervision and personal care.

Comment:

The Commission strongly urges the adoption of definitions of the key responsibilities of licensed boarding operators that are emphasized in the recently revised New York State Regulations For Residential Care Facilities for Adults. These New York regulations require that "An operator shall provide care to his residents including personal care and supervision as appropriate to the residents' needs in order to maintain and promote their wellbeing," defining these major duties thoroughly.

Supervision shall mean guidance of an individual resident as he carries out activities of daily living and social activities, including but not limited to administering or reminding a resident to maintain his medication schedule as directed by his physician, reminding him in keeping appointments and being aware of his general whereabouts even though he may travel independently about the community.

Personal Care shall mean the availability of an employee to render personal assistance with dressing, walking, bathing, personal hygiene, grooming, and other routines of daily living on a twenty-four hour basis.

The Commission's investigation and public hearings confirmed the paucity of regulatory guidelines on conduct or standards for Licensed Boarding Home operators and the imprecision of what rules do exist in this area. No where is an operator's obligation to supervise and offer personal care clearly defined. Operators who desire to be in compliance are unsure about their actual obligations. This can be rectified through the adoption and enforcement of specified responsibilities for operators. The definitions of supervision and personal care suggested above are but two examples of what should be a directive manual of considerable substance.

RECOMMENDATION - R2
Utilization of Services

A Licensed Boarding Home operator must notify appropriate authorities -- county welfare, community mental health, recreational -- when a boarder residing in his home is in need of their services but has not indicated an understanding of their availability or a desire to utilize them.

Comment:

Most residents of Licensed Boarding Homes require some degree of supervisory or personal care but often lack the self-reliance or independence to bring their needs to the attention of operators. Despite the limited capacity or motivation of boarders to reach out for help, operators are not obligated presently by any specific regulation to notify an appropriate agency of a resident's needs. An operator is not even required to notify an agency when a boarder's scheduled official appointment -- with, for instance, a social worker -- is missed.

RECOMMENDATION - R3
Operator Qualifications

Operators of Licensed Boarding Homes must qualify for licensure. Administrators of Licensed Boarding Homes also should be required to meet the same qualification standards as operators. Training programs

must be made available periodically for all key personnel. Operational deficiencies demonstrating a qualification weakness should require immediate remedial training. An operator who fails to comply with qualification standards, as to himself or staff, should be subject to fines and/or license revocation.

Comment:

The qualifications now required for operators and administrators of Boarding Homes are insufficient and ineffective.

The Commission's investigation revealed that many operators had little formal education, no experience in maintaining even rudimentary business accounts, no proven capability in the management of a Boarding Home, no training in the administration of medication, and little or no comprehension of the problems of handling residents in need of supervisory care, especially former mental patients. There are no qualifications for the staff of a Licensed Boarding Home.

While the Commission realizes the need to maintain a large pool of potential operators and administrators, qualification standards must be drafted that will insure that an operator/administrator is able to comply with all regulations of a Licensed Boarding Home. An operator's/administrator's qualifications must be part of his or her written application. Copies of it must be on file both at the State office and the Boarding Home. Compliance with the required qualification standards must be confirmed. The operator/administrator must employ only a qualified staff subject to a similar check-list of professional or technical standards. In line with the concept of avoiding overlimitation of the pool of possible operators however, the Commission recommends an aggressive training program as an alternative to a set of overly ambitious qualification criteria.

The State must periodically sponsor training programs in all facets of a Licensed Boarding Home operation, including the care of residents, record-keeping and medication. Potential operators/administrators could avail themselves of these courses to become qualified. Operators/administrators and personnel who violate required operational standards must be required to obtain remedial training.

Finally, proposed licensed operators and staff must submit to a complete background check for possible disqualifying factors. The Boarding Home Bureau would first decide, of course, which should trigger disqualification or revocation.

RECOMMENDATION - R4
Inspections and Inspection Staff

The Boarding Home Bureau shall employ a trained professional inspection staff of sufficient size to maintain both annual and spotcheck inspections of Licensed Boarding Homes to assure compliance with all regulations. Facility and resident records should be thoroughly reviewed during such inspections with particular emphasis on the provision of required services to residents.

Comment:

The Commission's investigation and public hearings documented the inadequacy of the present system of Licensed Boarding Homes surveillance. The size of the inspection staff (four people, including a supervisor) was too small to adequately monitor more than 270 Licensed Boarding Homes throughout the state. This small force is charged with the duty of conducting yearly inspections of all licensed facilities, licensure inspections of all new homes, spot visits, validation visits, investigations of complaints against both licensed and "unlicensed" Boarding Homes, report writing, testifying at hearings and other miscellaneous duties. Obviously, a routine annual inspection of each home -- if that -- was practically all that occurred.

A review of completed inspection reports of several homes indicate that certain parts of the surveillance forms are perfunctorily filled out. Despite subsequent public hearing testimony that many homes fed residents inadequately, these same homes were "approved" for this function by inspectors. Record-keeping in many homes was inadequate but this too was approved during inspections. Residents complained of not receiving mail or of being unable to make a telephone call -- but the inspection reports indicated no such shortcomings.

The Commission confirmed a marked tendency by state inspectors to rely on an operator's word for required information or regulatory compliance without checking such statements.

In connection with the inspection process, the Commission found that some local building inspectors were unaware that they can legally enter and inspect Licensed Boarding Homes in their municipality. Since such local inspections would supplement State inspections, the Commission urges that such activities by local building inspectors be strongly encouraged. The complaints of local inspectors should be recorded and processed promptly. Boarding Home operators should be required to permit ready access to such local officials.

RECOMMENDATION - R5
Revision of Manual of Standards

The present manual of standards should be expeditiously revised with particular attention to prescribed penalties.

Comment:

The Commission's hearing depicted the ineffectiveness of the Manual of Standards, particularly from the perspective of a lack of prescribed penalties for violations. Inconsequential fines, when fines were levied at all, were the rule. A Manual of Standards which catalogues a particular fine for each particular violation would be a clear message of departmental policy. The argument that aggressive enforcement and appropriate penalties reduce the list of providers is overcome by a proven contrary experience in the nursing home industry.

RECOMMENDATION - R6
Record Keeping

Operators of Licensed Boarding Homes must keep adequate records reflecting every aspect of both their business and their relationships with residents. Specific functions for which record-keeping is required should be cited by regulation. To the fullest extent possible, facility business, professional or other forms or procedures should be standardized, so that a reasonable standard of accounting practices is maintained.

Comment:

The records presently required to be maintained by a Licensed Boarding Home operator are so minimal and unspecific that they are virtually useless for regulatory purposes. The Commission's investigation showed that while some operators maintained business-like accounts, the lack of strict requirements and uniform standards permitted a blatant disregard for record-keeping. In some cases, scribbled notes on scraps of paper were the only records available and one operator testified that he kept such jottings in a paper shopping bag.

These conditions made it almost impossible for S.C.I. accountants to pinpoint precisely such vital data as names and locations of residents, rents charged, personal allowances received, food purchases, employee hours and pay, gross income, operating costs, etc.

Furthermore, no standard forms are required or provided concerning the operation of Boarding Homes. The lack of standardization makes efficient auditing and inspections impossible. For this reason, gathering information for statistical purpose is also hopeless. The following requirements are recommended:

A. Patient records

- i. A separate folder for each resident listing name, room number, rental charge, social security number, benefit of case number, Medicare or other health insurance information, next-of-kin, date of admission, immediately previous residence, date of discharge, place discharged to, name, address and telephone of attending physician, name of person to be contacted in an emergency, referring agency, and the name, address and number of any other agency providing services to the individual. The file will also include the date and particulars of visits by or to any social or medical service.

B. Facility records

- i. An alphabetical listing of all residents registered into or discharged from a facility, including admission date, age, sex and referring agency or place discharged to.

- ii. A register, maintained on a yearly basis listing the name of each resident on a separate page followed by columns for date of admission, date of discharge, gross monthly receipt, rent revenue, personal allowance and a fourth column for other money received by the resident apart from the monthly income check.
- iii. A cash receipts and disbursements journal maintained for the recording of resident income, other income, expenses. All expenses must be accompanied by receipts and/or cancelled checks.
- iv. Payroll records must be maintained of the names, hours worked, responsibility, and rate of pay of all employees of the facility. The name of the operator/administrator of a home must be clearly shown on this record. If the operator/administrator changes, the Human Services Department must be notified immediately by registered mail.
- v. Personal allowances ledgers and summaries of all deposits and withdrawals and current balances of the personal allowances for residents who choose to maintain such personal resources at the Boarding Home.
- vi. A monthly activities record must be maintained to indicate the social and recreational activities planned at the home or away from the home for each month. When an activity is completed, this fact should be noted with significant particulars (number of residents attending, etc.) on the record.
- vii. Inspection records of all inspections, including copies of the reports and any other correspondence or data relating to compliance with such inspections must be kept up-to-date and available for scrutiny at the Boarding Home.

- viii. Food records should include weekly planned menus to be saved for two years, bills for all purchases, cancelled checks for all purchases and a perpetual inventory of food purchased and served. At the end of each year a summary of expenses must be prepared and sent to the State agency in a manner prescribed by the State to be included in the Boarding Home record and for statistical purposes. Whenever possible the State should prepare standard forms for procedures for the records which an operator is required to maintain. In appropriate cases the State will supply the necessary forms.
- ix. Medication records also must be maintained for all residents on prescribed medication, indicating the name of the resident, the name of the drugs being used, the dosage, any physician's instructions and a daily record of usage.
- x. An annual financial statement must be filed by each Boarding Home detailing the basic operating costs of the home in accordance with standard forms to be provided by the state.

RECOMMENDATION - R7
Hearing Procedures

Hearing procedures in connection with violations of regulations by Licensed Boarding Home operators must be expedited and implemented according to proper legal standards, particularly in the use of reports by inspectors as evidence and in testimony by inspectors based on their surveillance. The Office of the Attorney General, which provides legal guidance to all state agencies, should be requested to establish a legal training program for the expanded Boarding Homes inspection force to professionalize the prosecution of charges against operators and minimize delays or dismissals of cases based on technical discrepancies.

Comment:

During the course of the Commission's probe, one of its Special Agents monitored several agency hearings on alleged violations of Boarding Homes regulations that could have resulted in severe fines or license revocation upon conviction. These hearings indicated an inability on the part of the State to prove its allegations due primarily to a lack of presentable, substantiated evidence. One hearing had been continued through numerous sessions over many months with no end in sight. These procedures, according to both operators and State inspection personnel, tend to become contests of time-wasting endurance rather than of legal proofs. A review of various inspection reports demonstrated that most of them would be legally deficient as evidence, primarily due to the inspector's unfamiliarity with the requirements for legal documentation.

RECOMMENDATION - R8
Internal Procedures

Definite and efficient internal procedures should be established within the Boarding Home Bureau for the flow of complaint - violation processes.

Comment:

The Commission's hearing revealed that the intra-office disposition of inspection reports was slow and circuitous. Reports passed through numerous hands for no apparent purpose before a decision was made. The new Boarding Home Bureau should undertake, as an initial task, the setting up of a streamlined procedure for the disposition of inspections and complaints.

RECOMMENDATION - R9
Transfer of Residents

The regulations must stipulate clearly a prohibition against transferring boarders from one place to another without the boarder's permission. To prevent further abuse of less self-reliant residents in this regard, an accounting of a boarder's previous address and subsequent address must be in the facility's records. Also, an operator must notify the appropriate officials, including any designated social worker, in the event of a forthcoming relocation.

Comment:

The Commission's investigation confirmed a "transfer traffic" in which boarders were abruptly and without proper reason switched from one Boarding Home to another, sometimes within a network of licensed and "unlicensed" homes owned or controlled by one operator. These transfers were made according to the whims of the operators rather than the desires of the affected boarders.

An operator of a Licensed Boarding Home is not now required to record a resident's previous address nor a resident's subsequent address when there is a change. The Commission feels that the regulations must clearly underscore a self-evident fact --- that operators cannot transfer a resident from one facility to another without a resident's request. An operator is also prohibited from transferring a resident's check to the new address without the express direction of a resident or the resident's social worker. In addition an operator of a Licensed Boarding Home must notify the Human Services Department of an ownership or other interest in any unlicensed Boarding Home. This information must be part of the initial application process and must be updated at the time of each annual inspection.

RECOMMENDATION - R10

Relocation of Residents Upon Closing

Whenever a Boarding Home loses its license or must be shut down for any reason, ample advance notice must be given to affected residents of that facility (or to a resident's assigned social worker, if applicable). The advance notice arrangements must include provisions for the proper relocation of a boarder according to his needs.

Comment:

When a home loses its license or otherwise closes, an operator is not now obligated to notify a resident or the assigned social worker of the change in status of the facility. In some instances, residents remained after the home lost its license or in some cases the residents were arbitrarily transferred by the operator to another Boarding Home. Remaining in a home which has lost its license or being transferred to another home certainly could be detrimental to a resident's welfare.

In addition, alternate remedies short of closings should be devised to bring uncooperative homes into compliance.

RECOMMENDATION - R11
Employment of Residents

An operator who employs a resident at the facility must notify state authorities in advance of the conditions of such employment, including the amount of compensation and the type of work and the hours of work. The regulatory agency must determine if the resident is able and qualified for such employment. In the case of volunteer work, the Boarding Home Bureau also must state its approval or disapproval of the employment based on the same description of the voluntary job as is required for compensated employment.

Comment:

In several Boarding Homes investigated by the Commission, residents were performing work for the operator. One resident was acting as a supervisor of the home in the owner's absence. Insufficient compensation was paid considering the long hours worked. Some residents received no compensation for their work. Ability to perform the assigned task and voluntariness were always subject to question. In some cases, the appropriate authorities knew that a resident was working while on other occasions they did not know of such employment. In order to protect both the resident who works for an operator and other residents in the facility, the regulatory agency must be notified of all cases where a resident is employed. The Boarding Home Bureau should give particular attention to instances of voluntary work and should allow it only where the beneficial effects upon the resident are demonstrable.

RECOMMENDATION - R12
Resident Recreation

An operator must arrange for diversified recreational activities for boarders. Such activities should receive regulatory emphasis to denote their importance to the wellbeing of boarders. Also, operators are obligated to know the activities of residents outside the facility and should arrange access to appropriate activities for residents.

Comment:

In many homes, social activities are limited to watching television. The Commission's probe disclosed that rarely was any money spent for recreational or social activities by operators. The regulations only superficially mention recreational activity as something an operator should but is not obligated to provide. Experts emphasized at the Commission's hearings that recreational activity was helpful in easing a former mental patient's transition to a normal community environment.

III. RECOMMENDATIONS RELATING TO MENTAL HOSPITALS

Introduction

Because a substantial proportion of the Boarding Home population is composed of former mental patients, certain special problems arise. The major deficiency has been the inappropriate placement of these residents, particularly from the standpoint of the inability of operators to deal with specialized needs. While the Commission is cognizant of the fact that inappropriate placements often are the only placements available, it recommends that all possible steps be taken to reduce their deleterious effects upon the residents.

RECOMMENDATION - M1

Specification As to Degree of Care Required

Prior to the release of any patient from a mental hospital, a clearly stated written determination must be made as to the degree of supervisory or personal care such patient requires, if any. This determination must be accompanied by the reasons for it and by the name and title of the person who made it. This determination must become a part of a patient's discharge plan, with copies turned over to all appropriate agencies or officials.

Comment:

Inappropriate placement of former mental patients was one of the most disturbing problems encountered during the Commission's investigation of Boarding Homes. Such actions resulted in abuses of these individuals at a crucial period of transition from custodial confinement to a more open community environment. At the present time, when a person is released from a State mental hospital, no clear-cut assessment is available as to whether the person requires supervisory care (the primary function of the LBHSC) or is able to care for himself. This determination should be made at the mental hospital prior to a release, of course, so that placement agency is fully aware of the individual's needs and thus can make an appropriate placement. Without this determination, the danger will persist that a patient requiring supervision will be located where such care is either unavailable or inadequate. The following recommendation addresses the problem of an inappropriate placement mandated by circumstances beyond the control of a mental hospital.

RECOMMENDATION - M2
Amelioration of Inappropriate Placements

If a person released from a mental hospital is inappropriately placed due to circumstances beyond the control of either hospital or placement authorities, the Boarding Home Bureau and the County Welfare agency must be notified in writing of this action and be provided with copies of the released patient's complete discharge determination as to the need for supervisory care.

Comment:

In cases where it is decided that a person requires the supervisory care of a Licensed Boarding Home but the placement agency is not able to arrange such a placement, the Boarding Home Bureau and the appropriate County Welfare authorities must be informed of the individual's new location and of full details on the reasons for the inappropriate placement, such as the unavailability of rooms, certain discriminatory practices, etc. The placement agency, the State regulatory agency and the County Welfare agency must continue joint efforts to find a suitable placement for any person requiring supervision who has been placed in an unsupervised facility. Highest priority must be attached to a program of constant, personal contact with such a misplaced indi-

vidual pending his relocation in proper surroundings. This program of contact takes on even greater magnitude when it is realized that these individuals are free to move about as they choose. They cannot be forced into any particular residential situation even if their own welfare demands it.

RECOMMENDATION - M3
Communication with Operators

When a patient in a Mental Hospital is released to a Licensed Boarding Home, a formal, written agreement must be signed by the Boarding Home operator with the placement agency stipulating the operator's commitment to providing the services that conform with the hospital's determination of the patient's degree of need for supervisory care and other data, including the available community services to which the resident should have access.

Comment:

The Commission's probe revealed a complete lack of communication or contact between a mental hospital and the operator of a Licensed Boarding Home in which a released patient was placed. Most operators were unaware of a resident's background and needs, what services were expected and what services were actually available to a resident.

RECOMMENDATION - M4
Community Mental Health Centers

Mental Hospitals in the process of discharging patients must include available Community Mental Health Centers in their network of required contacts on behalf of such individuals. Whenever such a center is in the released patient's placement area, the individual also should be provided with the Center's address and a list of services there that might be useful to him.

Comment:

The Commission's investigation showed that many residents of Licensed Boarding Homes had no contact with -- or even knowledge of -- the Community Mental Health Center in their area. Public hearing evidence disclosed that, while the concept of the Community Mental Health Center as the hub of a wheel of transition is sound, far too few centers exist. Moreover, even with regard to existing facilities, there is little or no communication between the releasing institution and the center. Upon notification that a released patient is in its service area, a center must offer its services to these individuals on an out-reach basis rather than relying on the newcomer to contact it.

Such notifications to available Community Mental Health Centers should be required no matter what type of placement has been made for a former mental patient. In the event that a temporary placement of an inappropriate nature has been necessitated, the Community Mental Health Center, upon notification of such a relocation, will serve as an additional watchdog or guardian of the individual's well-being pending reestablishment in a more fitting domicile.

IV. RECOMMENDATIONS RELATING TO
COUNTY WELFARE AGENCIES

Introduction

Although the Commission has urged that state services be strengthened and augmented, it also appreciates that there are many social services which can best be provided at the local level. Local agencies through their welfare boards and volunteer groups can provide the one to one personal contact necessary for the Boarding Home resident's re-entry into society. The following recommendations address this need.

RECOMMENDATION - W1
Interpersonal Contacts

County Welfare agencies must maintain files for each SSI recipient placed in a Licensed Boarding Home in its jurisdiction, must assign a social worker to maintain frequent, personal contact with such Boarding Home residents to assure that required supervisory care and other services are being provided, and must record and notify appropriate authorities of any change in a resident's needs or residential address.

Comment:

Prior to the inception of the SSI program, when the State administered and funded the entire welfare program for the aged, blind and disabled, periodic check-up visits were part of the required services. Under the SSI system, however, the Federal Government assumed responsibility for the financial administration of the program and county welfare workers no longer were required to visit the recipients. Social services were provided on an "as needed" basis, which meant that services were offered only when recipients requested them. As a result, many SSI recipients are never visited by a social worker. No one is required to check to see if the SSI resident is getting the help he needs. Many SSI recipients in boarding facilities do not even have a file in the county welfare office despite the public welfare obligation to provide social services -- on request -- to SSI recipients.

The Commission's inquiry revealed the importance of assigning a social worker to maintain contact with SSI recipients, including former mental patients, in Licensed Boarding Homes. The inquiry bared the desperate isolation of many boarders, particularly those eligible for SSI support. They have little or no contact with any one with professional experience who might help to alleviate their loneliness and other problems while at the same time generally monitor their living conditions.

RECOMMENDATION - W2
Equalization of Welfare Payments

Interim welfare assistance paid to prospective SSI recipients domiciled in LBHSC's or Boarding Homes should be at levels adequate to maintain the supervisory care or other services certified as necessary for such recipients.

Comment:

Individuals discharged from mental hospitals and placed in licensed or unlicensed Boarding Homes often require local welfare assistance while awaiting SSI benefits. Local welfare is reimbursed for such interim assistance. However, no matter whether a person is living in a licensed or an unlicensed Boarding Home, welfare pays the same rate. This rate is below \$200 per month.

Placement agencies have experienced difficulties in assigning residents eligible for such interim local assistance to Licensed Boarding Homes because such assistance is so far below the level of SSI benefits payable at these Licensed Boarding Homes. The result has been that persons requiring supervisory care often are unacceptable to operators of licensed homes due to the financial realities. Thus, these individuals are placed almost exclusively in "unlicensed" Boarding Homes. Persons requiring supervisory care should not be denied such care for want of adequate interim welfare assistance.

RECOMMENDATION - W3
Volunteer Programs

Model programs should be developed, utilizing volunteer workers coordinated by county welfare offices, for the purpose of improving social services available to Licensed Boarding Home residents.

Comment:

The Camden County Welfare Office coordinates a successful program of volunteers who supplement the work of social workers and otherwise help to improve the delivery of social services to residents of Boarding Homes.

The volunteers also monitor conditions in the Boarding Homes and work with operators to improve services to the residents. Such a volunteer effort is particularly effective in view of the fiscal and manpower limitations on public welfare agencies. The Camden program stands as an example for the establishment of similar model programs in certain other counties where there are a significant number of Licensed Boarding Homes whose residents could benefit from such community support.

V. SOCIAL SECURITY ADMINISTRATION

RECOMMENDATION - S1
Hospital Reimbursement Procedure

A formal procedure must be worked out between the Department of Human Services and the Social Security Administration whereby

reimbursement can be assured to the mental hospitals when they provide interim assistance through the Family care program during the period of time required for a boarder to become eligible to receive SSI payments. The procedure presently employed by local welfare should serve as a pattern.

Comment:

The S.C.I. public hearings illustrated that the state was being deprived of hundreds of thousands of dollars spent in the Family Care Program since no reimbursement procedures had been set up by SSI and mental hospitals. The Commission's investigation showed that certain Boarding Home operators were taking advantage of this double payment for previously compensated services to residents. Some hospitals have attempted to devise independent reimbursement plans but have been unable to guarantee full reimbursement. A simple procedure has been successfully employed by local welfare agencies to prevent such wasteful fiscal abuses. Such interim assistance as Family Care payments are reimbursable if a simple agreement is negotiated.

RECOMMENDATION - S2
SSI Investigative Procedure

The investigative procedure utilized by field workers must be augmented by training in surveillance techniques designed to identify problems in program integrity.

Comment:

The Commission's hearing illustrated that the SSI field representatives were deficient in their attempts to recognize fraud.