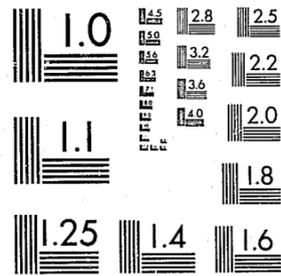


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CR. sent-12-27-83

DEPT. OF INVESTIGATION OF THE CITY OF NEW YORK

CORRUPTION INVESTIGATION TECHNIQUES

INTERNATIONAL TRAINING SYMPOSIUM-
A GATHERING OF STATE,
MUNICIPAL,
INTERNATIONAL CORRUPTION
AND GOVERNMENT
FRAUD INVESTIGATORS

SEPTEMBER 17-26, 1980

TRAINING SESSION PROCEEDINGS
STANLEY N. LUPKIN
COMMISSIONER



1570-91571

91570

✓ September 1980 SESSION
CORRUPTION INVESTIGATION TECHNIQUES

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Deputy Chief Investigator
Director of Investigative Training

JOY DAWSON
Inspector General Liaison
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AUG 10 1981

ACQUISITIONS

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CHIEF INVESTIGATOR

STANLEY N. LUPKIN
COMMISSIONER

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FOREWORD

I am exceedingly pleased and honored to be able to present this final report on the proceedings of the September, 1980 Session of Corruption Investigation Techniques international training course given by the Department of Investigation. This course has evolved from a local training program of corruption investigators employed by the City of New York into an international symposium for corruption investigative personnel from around the world.

This Session assembled anti-corruption investigators from six (6) nations and four (4) states as well as the City of New York. The Session provided a forum for a wide range of viewpoints on the municipal corruption problems. More important, it opened up lines of communication between those law enforcement organizations charged with the responsibility of detecting, investigating and prosecuting corrupt acts. This exchange of information clearly will enable our organizations to more effectively and efficiently carry our respective anticorruption goals.

Another positive result of the Session was the exposure of both North American and Overseas officials to New York City's approach in managing the integrity of its officials. Our investigative focus, employment of resources and our organizational structure were the subject of lectures and discussions. Actual case examples were examined and critiqued so that all participants would have a chance to study actual operations. At the same time, we of the Department of Investigation were able to learn about the structure of other organizations and the tactics they employ.

On behalf of the Department, I would like to take this opportunity to extend our gratitude to Chief Victor I. Cizanckas of the Stamford, Connecticut, Police Department and to Chief Investigator Richard Condon of the Office of the Special State Prosecutor for the Investigation of Corruption in the Administration of Criminal Justice in the City of New York, for their academic contributions as well as their material support for the Session.

Finally, people from around the world are demanding efficient and corruption free government. Corruption adds to the inflationary spiral in the cost of government as does waste and inefficiency. When our anti-corruption organizations carry out their respective mandates proficiently, the end result has to be growth in public confidence in the integrity and the cost effectiveness of our various systems of government. I believe that this session was a step in that direction.

Ed Siedlick
Deputy Chief Investigator
Director of Investigative Training

AGENDA

NOTE: Workshop and discussion group participants and lecturers were invited to submit a text of their remarks. All of those submitted in time are included.

Wednesday, September 17, 1980

Held at the Department of Investigation

10:30 AM Keynote address by Honorable Stanley N. Lupkin, Commissioner of Investigation of the City of New York

11:00 AM "The Role of Corruption Prevention in Assisting Investigative Personnel:

Judith A. Stevens, Director of Corruption Prevention and Management Review Bureau, Department of Investigation

11:30 AM "Government Check Fraud and Computer - Related Crime"

Monica Egresits, Esq. Chief, Check Fraud Unit, Department of Investigation

2:00 PM Panel Discussion

Maintaining Integrity in the Inspectional Services Function of Government"

Moderated By: Deputy Chief Investigator
Robert Gardner
Department of Investigation

Introductory
Remarks: Assistant Commissioner
Daniel Karson
Department of Investigation

Thursday, September 18, 1980

Morning sessions held at New York City Police Department's Internal Affairs Division. Afternoon Session was held at the Office of the United States Attorney for the Eastern District of New York.

Morning session - "Corruption Within Police Service"

Afternoon session - "Corruption Investigation and Prosecution Under Federal Law."

Friday, September 19, 1980

Afternoon session held at the Office of the Special State Prosecutor of Investigation the Criminal Justice System in New York City.

3:00 PM "The efforts of the Special State Prosecutor to investigate the Criminal Justice System in assisting the City of New York in its overall Anti-Corruption Program."

Richard Condon
Chief Investigator
Special Prosecutor's Office

Monday, September 22, 1980

Held at New York University Graduate School of Business Administration.

9:15 AM "Organization and Structure of Corruption Investigations Within New York City"

Joy Dawson, Course Coordinator
Inspector General Liaison
Department of Investigation

3:00 PM "Program Fraud"

Fred Mehl, Esq. Milvia DeZuani, Esq.
Program Fraud Unit Program Fraud Unit
Department of Investigation Department of Investigation

Tuesday, September 23, 1980

Held at New York University Graduate School of Business Administration.

9:15 AM "Interview and Interrogation Skills and the Anti-Corruption effort."

James Hildebrand
Chief Investigator

Management Summary of Comparative Anti-Corruption Organizations and Methods.

Remarks submitted by Hofrat Dr. Heinrich Tintner, Department of Investigation of Economic Crimes, Federal Police, Vienna, Austria.

Wednesday, September 24, 1980

Held at the Landmark Square, Stamford, Connecticut

9:30 AM "Establishing a Climate for Reform and its Political Consequences"

Honorable Louis A. Clapes, Mayor
City of Stamford, Connecticut

10:00 AM "Implementation, Risks and Consequences"

Chief Victor I. Cizanckas
Stamford Police Department

1:45 PM "Role of Media in Exposing Corruption"

Jay Shaw
Publisher and President
Stamford Advocate

3:00 PM Held at City Hall, Stamford, Connecticut

Summary of Workshop on Organizing a Corruption Investigation
Deputy Chief Investigator Ed Siedlick
Director of Investigative Training
Department of Investigation

Thursday, September 25, 1980

Morning: Held at New York University Graduate School of Business Administration

Management Summary "The Use of Undercover Operations in Corruption Investigations"

Afternoon: Held at the Blue Room, City Hall, City of New York

3:00 PM "Summary of Proceedings"
Honorable Stanley N. Lupkin
Commissioner of Investigation
City of New York

3:30 PM Address by Honorable Edward I. Koch
Mayor
City of New York

4:00 PM Address on behalf of Visiting Students by Mr. Roger Batty
Independent Commission against Corruption, British Crown Colony of Hong Kong.

APPENDIX

- a. Directory of Students
- b. Faculty
- c. Actual Schedule of Classes
- d. Executive Order 16

Wednesday, September 17, 1980

Held at the Department of Investigation

INTRODUCTION OF COMMISSIONER LUPKIN
By Deputy Chief Inspector Ed Siedlick
Director of Investigative Training

10:30 A.M. Ladies and gentlemen I have the distinct privilege of introducing our keynote speaker and Commissioner, the Honorable Stanley N. Lupkin. Commissioner Lupkin has been a driving force behind the anti-corruption effort of the City of New York.

He is a graduate of Columbia University and New York University Law School.

He is a former prosecutor having served as an assistant district attorney in New York County under the tutelage of the late Frank Hogan.

Coming to the Department in 1971 as an Assistant Commissioner, he has risen to head the agency instilling growth and vigor in both the organizational and operational areas.

He is more than a public servant who supervises an important Agency. Commissioner Lupkin is a symbol of integrity in government.

It is with pride and honor that I present to you the Commissioner of Investigation, Honorable Stanley N. Lupkin.

10:30 A.M. INTRODUCTORY REMARKS FROM
KEYNOTE ADDRESS

By: Commissioner Stanley N. Lupkin

On behalf of the Department and the City of New York I would like to welcome all of you to the City of New York. We believe that your visit and participation in this training session will prove extremely valuable both to you and to our Department.

Our approach in New York City to the municipal corruption problem is one of decentralization. Although Executive Order No. 16 issued by Mayor Koch gives the Department of Investigation overall responsibility for the investigation and elimination of

corrupt conduct on the part of government officials and employees, we believe that accountability is an essential element of any anti-corruption effort. Agency heads must be held accountable for the integrity in their respective Departments and must set a tone of accountability for all managers within their agencies. If accountability is to be a controlling factor, then executives must have tools at hand to search out and identify corruption and misconduct potential.

The establishment of the Inspector General Program is a means to accomplish that end. The program provides for an anti-corruption unit to operate in each municipality agency with a view toward eliminating and investigating "corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence". The Department of Investigation directs and guides the activities of the Inspectors General to insure a unified and cohesive focus.

This system, of course, allows the Department to concentrate its resources on large scale programmatic corruption. Our intelligence on potential corruption-prone situations has increased since the Inspectors General have become established as in-house investigators. Combined efforts between the Inspectors General and the Department have become commonplace. This partnership has not only allowed for a more efficient deployment of resources, but has also permitted the Department to manage more effectively the general level of integrity.

I believe that our system portrays a constant presence of integrity control and management. The atmosphere, reinforced constantly by the City's Chief Executive Mayor Koch, is one of intolerance to corruption. Although the vast majority of government employees are hard-working and dedicated people, there exist on the extreme ends of the universe of municipal employees at one-at one end a certain hard core group that will be corruption prone and correspondingly on the opposite end of the spectrum, a group of employees who perform their duties honestly and efficiently no matter what the attitude of tolerance or intolerance to corruption. The environment that the leadership of the government creates will determine, to a great extent, the direction toward which side of the spectrum large numbers of employees will drift.

We believe that New York City is a leader in the anti-corruption movement that is currently taking place in the world. Our sister agency in Hong Kong, the Independent Commission Against Corruption, is a perfect example of the evolution of organizations that deal with the corruption problem. Organized along similar lines to DOI, the ICAC has had an almost identical experience of dealing with official corruption. I believe that all of us assembled here will be faced with the same organizational and operational problems as we confront the menace of corruption. That is one of the reasons for this gathering. Let us pool together our experience so that all municipalities involved in this effort will profit in the end. The government, and subsequently the people will clearly be the chief beneficiaries.

Thank you.

11:00 A.M. Introduction of Judith A. Stevens
Director, Corruption Prevention and
Management Review Bureau

By: D.C.I. Ed Siedlick

Our next speaker, Judith Stevens is the Director of the Corruption Prevention and Management Review Bureau of the Department of Investigation. Ms. Stevens will explain the role that her unit can play in assisting the operational function of Anti-corruption activities.

Judith holds a B.A. degree from Randolph Macom Woman's College and an M.A. from New York University.

She obtained her law degree from Fordham University.

Ladies and gentlemen let us welcome Judith Stevens.

The Role of Corruption Prevention in
Assisting Anti-Corruption Investigative Personnel

The recognition that corruption prevention plays a major role in the reduction of white-collar crime is of fairly recent origin. I would suggest that, in fact, it is the most important method of decreasing white-collar crime and promoting the integrity of public service. Yet, today, most cities continue to focus solely on a traditional investigative/prosecutorial approach.

What's so special about corruption prevention?

Through the use of systems and management analyses, staff members are able to determine where corruption activities have been, or might be, initiated; from this information, analysts can recommend measures to eliminate or sharply limit identified programmatic abuse. This front-end approach to corruption focuses on the inadequacies, inefficiencies, and lack of controls of a system - how did it happen, and what can be done to prevent its recurrence rather than on the individual's guilt.

What does this approach mean to the investigator or prosecutor? Most obviously, it means a lighter caseload and fewer cases that are repetitive in nature. For example, as a result of recommendations by our Bureau in 1977 involving emergency Welfare check fraud, the number of incidents subject to investi-

gation was reduced from approximately 5,000 a month to 330. In addition, it also means that once an agency has implemented our recommendations, the investigator and prosecutor are going to have an easier case to make, because there will be in place an audit trail for probers to follow. This in turn will improve the operational capabilities of those involved in the investigation and prosecution of the individual.

While the investigator cannot be expected to know the specific techniques used by those of us in corruption prevention, which include statistical analysis, work flow analysis and computer programming, there are signs of corruption hazards that an operations person can identify while conducting an investigation.

1. Where can we expect to find corruption?

Corrupt practices will surface when there are things of value involved. In addition to the obvious, money and checks, "value" can include the following:

- o Licenses
- o Tax exemptions and abatements
- o Preferences
- o Non-competitive bidding
- o Anything in which there is a limited amount;
e.g., in Hong Kong there are only a certain number of taxi medallions given out at any one time.

Secondly, corruption can be expected when the government is unable to provide the services demanded of it. For example, does it take so long to obtain a building permit that it becomes worthwhile to the builder to attempt to "expedite" the application process? In instances such as this, it is often the poor management practices of a department, and the resulting operating inefficiencies, that lead the otherwise honest businessman to seek an alternative to the bureaucratic red tape.

Thirdly, and the most difficult situation from a corruption prevention point of view, are those instances in which there is a one-to-one relationship between a member of the public and a government worker, most notably in the inspectional services.

2. What does a corruption prevention analyst look for in conducting a review of an agency's operation?

In no particular order, listed below are many of the areas of concern that are addressed in conducting a management analysis:

- o Is there legislation delineating the agency's duties and obligations to the public?
 - What does the law require?
 - Are the obligations clearly defined, or is there room for discretion by the administering body?
 - What rules and regulations have been promulgated to enforce the law?

- Does the law, as written, meet the intent of the legislators; are there changes that can be recommended to clarify the legislation?
- Is there an appeals process available to the aggrieved individual that is separate from the line organization?
- o Are there written staff functions and organizational procedures?
 - Are they followed?
- o What is the chain of command in the organization?
 - What is the span of control?
 - Is there a separation of duties, e.g., is the person who collects the money different from the one who reconciles the money at the end of the day?
- o What is the physical layout of the office?
 - What is the work flow?
 - Is confidential information kept in files?
 - Are files secured?
- o Is there an overabundance of paper work? Is there a reason for this duplication?
 - Is there a backlog of work? How large? For what reason?
- o When contracts are involved:
 - What is the bid writing, letting, opening procedure?
 - Is there post-contract compliance monitoring, and, if appropriate, quality control?
 - Are unannounced spot checks made by supervisors of the inspectional staff?
 - Are fiscal audits performed?
- o What inventory control system is in place (physical and paper)?
- o Does a supervisor review the work of others? Is there a sign-off by the supervisor of work completed or authorized, with a date of the sign-off?
- o How much contact do workers have with the public? How much freedom does the public have in entering a work area, looking through files, etc.
- o Is information logged in, time stamped when received? Are receipts issued? If appropriate, are general ledgers kept up to date?

- o How stringent should the licensing requirements for an individual be in order to safeguard the public welfare?
- o What is the physical security of an agency's computer center?
 - Have disaster plans been developed?

How internally secure is the computer system? How easily can the system be accessed, the data altered?

As stated previously, not all of these items will be appropriate for every investigation, nor is the list all inclusive. But the key to a successful preventive approach is reflected in these questions, and can be summarized in three words: audit, accountability, and control. The investigator, by keeping in mind these concepts in the course of his investigation will begin to identify the systemic flaws and mismanagement that allow breaches of ethics or corruption to be maintained. This is the important first step to applying a preventive rather than a reactive approach, which in time can largely obviate the need for classic criminal justice responses.

11:30 A.M. Introduction of Monica A. Egresits, Chief, Check Fraud and Computer-related Fraud

By: Deputy Chief Investigator
Edward Siedlick

Ladies and Gentlemen, I am pleased to introduce one of D.O.I.'s "imports" Ms. Egresits was born in a small farming village in Hungary and escaped to this country with her parents during the Hungarian Revolution in 1956.

Since that time, she has developed a keen sense of awareness of the American democratic system and of the importance of maintaining an effective criminal justice system. She began her education at a small Liberal Arts school in Rhode Island, Roger Williams College. After graduating Magna Cum Laude with a B.A. in Political Studies in 1975, she went on to attend Temple University School of Law in Philadelphia, Pennsylvania. Following her graduation in 1979, Ms. Egresits came to work at D.O.I. as an Examining Attorney and, in a very brief time, was promoted to the position of Chief of the Department's Check Fraud Unit. In this position, she has had an opportunity to investigate major instances of systematic fraud involving checks and computers. I am sure that she will explain the importance of this function in her talk.

During her tenure in the Check Fraud Unit, she has redesigned the Unit to include the investigation of computer-related fraud, an exciting new area for the Department to explore.

Please join me now in welcoming Ms. Egresits.

Government Check Fraud and Computer-related Crime

Thank you Ed for your introduction and the opportunity to address this distinguished group.

The check fraud Unit of the Department of Investigation is designed to detect and investigate organized forms of government check fraud and has recently been expanded to include the investigation of crimes committed through use of the computer. The Unit is headed by an Examining Attorney who supervises the gathering of evidence of each case and renders all legal decisions necessary to assure complete and prosecutable cases. The focus of the unit is directed in those investigative areas where a pattern of check fraud exists resulting in substantial monetary losses to the City. We seek to identify and prosecute not only cashers and fencers of stolen checks, but those government officials who are also involved in the criminal activity. The case-load of the Unit is usually between 25-50 cases and the average dollar amount represented is approximately \$20,000 per case. A special section of five (5) investigators under the command of a Deputy Chief Investigator provide necessary operational capability for field activities. A handwriting expert is used frequently, on an as-needed basis, to examine and report on various handwriting exemplars submitted on each case. Prosecution of these cases is handled by one of the New York State District Attorney's Offices in the county in which the crime occurred.

In many cases, the investigation is initiated on the basis of a single piece of evidence -- the check itself. Fortunately, the check, if examined carefully, contains a wealth of information. By examining the back of the check, the following data can often be found: The cashing bank; the branch number; the cashing teller; the time and date that the check was negotiated; the type of identification used by the alleged payee to cash the check; the account number, if any; the cash/deposit breakdown, if any, and the denominations of bills given to the alleged payee. With the above information in hand, it is now possible to interview the respective teller, to examine the records of particular accounts, to trace back an employee number or most other valid identification numbers and to determine if any bank photographs were taken of that particular transaction.

If the check has been deposited into an account, a properly-served bank subpoena will provide the investigator with the suspect's name, address, business location, if any, account activity, and, most importantly, samples of his/her handwriting. Once you have obtained records of the account's monthly activity,

you may be able to trace the deposit of the checks involved and to obtain the deposit slips from the bank for these deposits. The deposit slips must be obtained to demonstrate that the deposit(s) made were in the form of checks rather than in cash.

One key point to keep in mind in serving a bank subpoena is the Bank Secrecy Act of 1979, which requires the bank served with a subpoena to notify the depositor that his account has been subpoenaed. It might be wise to develop a professional cooperative relationship with the banks you regularly deal with, and, in appropriate and highly sensitive situations, you may ask the bank to postpone the notification of the depositor for a set period of time, e.g. 90 days. Most bank officials understand the occasional need for secrecy and will comply with this request.

In addition to check-related information, other valuable information can be obtained by means of various other proven investigative methods. Techniques such as undercover operations, surveillance, interviews with complainants and witnesses, use of marked currency and the examination of business records are all effective in the proper situations to gather evidence and information.

In many cases, information which cannot be secured through other channels, can be obtained by consulting one of several other agencies. These agencies include: bank investigative offices, United States Postal Inspectors, United States Secret Service, the Social Security Administration fraud investigators, Document Examiners and other City, State and Federal agencies. These agencies are usually very cooperative in the sharing of information or of investigative techniques.

In all cases, with all evidence, it is vital to preserve the evidentiary character of the information gathered. All information must be dated, labeled and initialed in order to increase the chances of its admissibility in court or in an administrative proceeding.

Computer Fraud Investigation

Our society has seen, in a relatively short time, the passing of the age of agriculture into the age of industry. We are currently witnessing the transition into a third age -- the age of information. With this new and highly complex means of processing, storing and using information comes a new responsibility for all law enforcement agencies to educate themselves in order to be able to deal with the new crimes appearing on the horizon.

Today, there are approximately, 600,000 acting computer systems nationwide and over 4 million terminals. The technically-motivated, fast-moving and competitive business society of today has become more and more dependent upon the computer for financial record-keeping, account, charting projections for future development and for the day-to-day operations of many computer-operated modern factories.

In light of the astronomical development of the computer, built-in security measures become much more important to the effective operation and security of businesses and government facilities which make use of this technology. Security comes in three "styles" in the field of computer: (1) physical security of the computer hardware and the guarantee that the environmental surroundings (e.g. temperature, lighting, power) will remain constant; (2) access safeguards must be designed in the programs used by the computer, either in the formulation of code names which should be required to access especially sensitive information or functions, or in the storing and monitoring of the materials stored in the computer's library facilities; and (3) effective personnel screening to insure that only highly qualified and trustworthy employees have the opportunity to access sensitive information or to perform potentially fraudulent functions on the computer.

Periodic checks should be designed and carried out to insure that programs are being run as they have been designed to and that no unauthorized alterations have been made to fraudulently effect financial balances or inventory records. A good reference document which should be referred to in designing your security controls is SYSTEM SECURITY STANDARDS FOR ELECTRONIC DATA PROCESSING, by Rolf Moulton, the Director of Computer Security of the Department of Investigation. It was published by the City of New York in April, 1980 and is available from the City Record, Room 2223, Municipal Building, One Centre Street, New York, New York 10007, for the cost of \$5.00.

One major problem that law enforcement agencies have been facing in this area is the reluctance of private companies to report the discovery of frauds committed by use of the computer. Many corporate executives feel that it is more beneficial for their companies to deal with this problem internally rather than risk harming their industry-wide reputation or alerting their stockholders and perhaps cause panic selling of stocks. What they seem to ignore is the possible deterrent value of reporting these crimes and the benefit of alerting other companies of the possibility of major losses being suffered as a result of the deceitful actions of a "trusted" employee. The losses incurred as a result of computer-related crime are passed on to society, in general, and the impact of these multi-million dollar losses is often concealed in higher prices for products and services.

Because of the highly complex nature of computer crime and of the new language of computer technology, it is vital that law enforcement agencies arm themselves with computer-trained investigators who are skilled in the field of computer operation and programming. Since there are no geographic constraints in the area of computer crime, cooperative investigations conducted jointly by several jurisdictions will become more common.

There are several different categories of crime which can be committed with a computer. They include: the changing of data before or during input into the computer ("data diddling"); the placing of covert instructions in the program to direct the computer to perform unauthorized functions and, at the same time,

to still perform the intended purpose ("Trojan horse"); the undetected pilfering of a very small amount of money or materials from a large number of sources ("salami technique"); hooking into the access line of an authorized terminal and the stealing of information ("piggy backing") and many other highly-technical methods of gathering and affecting information stored in the data base of a computer system which are nearly impossible to detect or to guard against.

Some of the methods used to detect a computer crime and to trace the path used to commit the crime include: The comparison of a suspected program with a "master" copy of this program known to be free of unauthorized changes; The careful examination of the program in order to detect unnecessary or unexplainable functions; test runs of the program with phoney information in order to trace the development of this information and the comparison of the resulting print-out with the raw input data or the source documents. It is, of course, possible to discover a computer crime through the use of traditional investigative techniques: surveillance, interviews, wire-tapping, use of a "turned" witness, etc.

As in any criminal case, preservation of the evidence seized is vital. Special care should be taken in the accumulation of sure evidence as source documents, computer data storage media (tape, cards, disks), manual logs or exception reports and printouts. All evidence of this type must be dated and sealed immediately after being seized in order to avoid any claims that it has been tampered with. The chain of custody of the evidence must be clearly recorded and kept with the evidence. Because of the exceptionally sensitive nature of computer data storage media, it may be necessary to store the evidence in a carefully-controlled environment, where the temperature and level of humidity can be monitored and maintained.

Since most states do not have a specific computer crime statute, it may be necessary to gather additional evidence to meet the elements of another applicable provision, such as larceny (of information or computer time) the filing of a false instrument or a general fraud provision.

Thank you.

2:00 P.M. Panel Discussion: "Maintaining Integrity in the
Inspectional Services Function of Government"

INTRODUCTION OF ASSISTANT COMMISSIONER DANIEL KARSON AND
DEPUTY CHIEF INVESTIGATOR ROBERT GARDNER, DEPARTMENT OF INVESTIGATION

By: Deputy Chief Investigator
Ed Siedlick

Ladies and gentlemen, the next phase of our training session will be a panel discussion on investigating corruption within the inspectional services function of government. The panelists will include our North American and overseas participants as well as three (3) Inspectors General of their respective Agencies of the City of New York. The discussion will be moderated by Deputy Chief Investigator Robert Gardner. This part of the program, was designed by Assistant Commissioner Daniel E. Karson.

Dan Karson is a lifelong resident of New York City. He was educated in the public schools and received a Bachelor of Arts degree cum laude from Ithaca College in 1969. He attended New York University Law School and was awarded the degree of Juris Doctor in 1973. Mr. Karson began his professional career in the Bronx County District Attorney's Office in New York City where he served as an Assistant District Attorney, Deputy Chief of the Investigations Bureau and Chief of Narcotics Investigations.

In 1979, Mr. Karson joined the Department of Investigation as Director of New York City's Inspector General Program which is responsible for the supervision of Inspector General offices in 21 major city agencies. In 1980, he was promoted to the position of Assistant Commissioner of Investigation.

Robert Gardner has been a member of the Department of Investigation eleven (11) years. He is a Detective Sargeant in the New York City Police Department. In 1978 he was promoted to Deputy Chief Investigator.

Bob holds a BS degree, graduating cum laude from John Jay College of Criminal Justice. He is also a graduate of the FBI National Academy. He has been instrumental in setting up this Department's training program. After moderating the forthcoming panel discussion he will discuss the investigative technique of the "turn-around operative."

Dan Karson will now present some introductory remarks to set the tone for our panel discussion.

INTRODUCTORY REMARKS BY DANIEL KARSON

Thank you, Ed.

Corruption is the most pernicious threat to honest and effective government. The existence of corrupt relationships between members of the private sector and public office holders has an immediate impact on public health, safety, welfare and morals.

The two principal areas which breed corruption are inspectional services and the contract award process. Payoffs to Inspectors enable merchants to overcharge consumers, tamper with scales, sell inferior merchandise and do business in unsanitary or hazardous premises. Bribes paid to public employees who draft contract documents or monitor contract performance result in the artificial inflation of costs, the use of inferior materials in construction and the failure to deliver essential services.

Corruption costs the public money. It promotes inflation. Ultimately, it persuades the average citizen that it is part of the fabric of government. If the public perceives its government as corruption-ridden, public esteem for the law will be undermined and public behavior will be influenced accordingly.

Offices like the Department of Investigation must attack corruption in several ways. They must vigorously investigate complaints and prosecute cases arising from allegations made by the public. They must also actively seek out corruption and corruption prone conditions by initiating imaginative and unusual techniques. Undercover investigations and analysis of government offices, for example, should be undertaken at the initiative of investigative offices. These will serve as pre-emptive and deterrent forces in discovering corruption and rooting it out.

Finally, investigative offices should enlarge their presence in government through ongoing educational projects, warning the public, and public employees of the hazards and cost of corruption. This three-pronged approach -- investigation, prevention and education--must be the hallmark of modern law enforcement.

Maintaining Integrity in the Inspectional
Services Function of the Government

MODERATOR

Deputy Chief Investigator Robert Gardner

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Panel Discussion
Maintaining Integrity in the Inspectional
Services Function of Government:
A Roundtable Discussion

Report Prepared Under Supervision of Judith Stevens
Director, Corruption Prevention and Management Review Bureau

This problem solving session attended by individuals from all areas of the world provided them with an unusual opportunity to focus on and explore the problems common to the participants, to trade ideas with fellow conferees, and to broaden the investigator's scope as to the range of techniques available.

To ensure a common ground for discussion among the diverse participants, DOI personnel offered the following definitions of key terms, which were agreed to by the group members (most of which are modeled after or taken from New York's Penal Code):

- .Inspectional services - These are the employees assigned to ensure that the products and services used and consumed by the public meet predetermined standards. Some examples of these services include inspectors of construction projects, health inspectors of restaurants and food chains, and those who routinely inspect commercial buildings.
- .Bribery - When a person confers, or offers or agrees to confer, a benefit upon a public servant's vote, opinion, action, decision, or exercise of discretion.
- .Bribe receiving - When a public servant solicits, accepts, or agrees to accept a benefit from another person with an understanding that his vote, opinion, action, decision or exercise of discretion as a public servant will thereby be influenced.
- .Giving unlawful gratuities - When a public servant solicits, accepts, or agrees to accept any benefit for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation.
- .Due to the important role that inspectional services play in protecting the public, committee members stressed the

necessity of maintaining integrity in these services, since activities of less than honest inspectors are directly related to threats to the public's health and safety.

With this broad understanding of the issue, the group addressed four specific questions:

- 1) Why does a bribery system develop within the government sector?
 - 2) What role does the public play in such a system?
 - 3) What are some of the indicators that public corruption exists?
 - 4) What can be done about inspectional corruption once it has been indicated?
1. Why is there a bribe system within the public sector?
Participants offered the following as some of the reasons public employees seek and accept bribes:

- o Individual greed, and the desire for power;
- o Personal problems, for example, large debts that could be the result of educational or health expenses;
- o A desire by the public servant to improve his standard of living. This desire is exacerbated by the fact that, in general, lower salaries are paid to civil servants than are paid to those in the private sector.
- o In some instances, a newly established government official becomes ensconced in an ongoing corrupt system. In order to keep his job he must accept the realities of the situation, or face discharge.

2. What role does the public play in a bribery system?
There is no doubt that bribery is a two edged sword. Public apathy and condonation of corruption helps foster its existence.

In addition to public apathy, however, the bribe-offering or paying citizen plays a major role in promoting corrupt practices. Many reasons for this behavior covering both public attitudes and government structure, were advanced by members of the group, including the following:

- o Government regulations are often so burdensome that it is cheaper to bribe the inspector than to meet statutory requirements or to pay fines imposed.

Similarly, bribes are often an effective method of cutting through governmental bureaucracy and red tape.

In some instances, the citizen is aware that antiquated or unrealistic laws or regulations can be used by an inspector as a form of harassment. In those cases, it is wiser to pay a bribe than to deal with an inspector's hidden threats.

- o There is a perception by the citizenry that white collar crime, while "bad", is not as bad as the traditional crimes.

Similarly, many people have the attitude that bribery is a governmental tradition, and, as such, a necessary operating expense. Some participants noted that in their countries this attitude is not limited to those doing business with the government, but is considered by the public as a whole as a culturally-acceptable mode of behavior.

Some individuals who are constantly seeking ways to "beat the system" use bribery to that end.

3. What are some of the indicators that corruption exists?

- o The most common method of discovering bribery is from an outside source or complaint. These sources fall into several categories:

- The outraged citizen who has been approached by an inspector;
 - Another employee;
 - The person who has been involved in the bribery, scheme who either fears getting caught, feels the inspector is too greedy, or feels he's being cheated by other participants;
 - Informant or information networks.
- o Some methods exist for determining not only whether corruption exists, but the extent to which it can be found. These can be summarized as follows:

- Management indicators:

Are there gross differences in productivity levels for civil servants among employees?

Similarly, environmental indicators may reflect whether inspections are being completed properly. For example, an out-breaking of fire or illness could point to improper inspectional activities.

How much authority, discretion, and supervision are given to the employee? I.e., what are the corruption opportunities? Are revenue projections for the agency higher than what is actually being received? For example, are license fees or fine collections unusually low?

- Other indicators:

An unexplained higher standard of living for one or a few employees may indicate a need for further investigation;

An employee's former employment record can show past questionable activities;

Integrity testing will show the honesty of the system. For example, one of the methods that has been used in many cities to test policemen is to leave a billfold with money in it to see if the officer will turn it in to the appropriate authorities.

The public's perception of the amount of corruption in government as it is reflected through the mass media can often be used to measure areas of duplicity.

4. Once inspectional corruption has been indicated, what are the investigative approaches for dealing with the problem?

Since this was the focus of the roundtable discussion, the technique of brainstorming was used to elicit as many responses as possible during the limited time period. Each idea was then evaluated to determine its appropriateness as a tool for the investigator.

This approach yielded the following techniques, many of which are discussed in detail in a separate paper, Analysis of Investigative Techniques, by Sgt. Robert Gardner. Most of the techniques listed can be used concurrently during the investigative process.

1. Undercover operation. This is one of the primary methods of the investigator. Included under this technique are both the planted agent and the operative. Participants emphasized that the operative must be dealt with carefully. Individuals who can be used as operatives are

- .co-conspirators
- .complainants
- .paid informants
- .fences
- .buffs
- .those "working it off".

A field associate program can be established to recruit employees who then continue in their regular positions in the department, but report periodically to someone on the activities of fellow employees.

2. Surveillance is the second major technique. Surveillance falls into three major types.

- o Electronic - Included in this category are the use of body wiring, eavesdropping, and bugging.
- o Photographic
- o Visual

Using both of the latter techniques, information can be obtained on targets, operatives, informants and their associates; on members of the public, such as shop owners, vendors, customers, and public officials; and on locations and vehicles. Vehicle surveillance is often used for these activities.

3. Background Checks of a target's lifestyle and finances can provide the investigator with valuable information. Specific items to be checked include

- credit checks,
- mortgages,
- monthly charges,
- judgments,
- property owned,
- payment of debts, i.e., have any large debts been paid all at once,
- safety deposit boxes,
- unusual family expenses, i.e., private educational costs, long term illnesses,
- the lifestyle and finances of other family members.

4. The "turning" of offenders can be an effective method of penetrating a corrupt system. This method involves getting corrupt employees to uncover and assist in the investigation and prosecution of other employees. The best approach is to work up through the system by first turning a lower level employee, who then becomes a participant in the investigation. Caveat: The turned offender could destroy the investigator's case.

In some jurisdictions, once the issue of turning has been discussed with the offender, it is difficult to bring criminal charges against that individual.

5. Product or service sampling; spot checks.
6. Use of the grand jury system, including the investigative (one person) grand jury, and the granting of immunity to known offenders can aid the development of a case.
7. The passage of "compulsive" legislation which mandates cooperation with investigators is a strong enforcement tool in obtaining information.
8. Require a declaration of income of employees.
9. Mass media accounts of corrupt activities can be beneficial for obtaining sources of information. In addition, planned "leaks" by anti-corruption personnel to the media can benefit an investigation.
10. Rewards, such as a money bonus or a promotion, can be offered for information on bribe activities.
11. Confidential access to the investigation team can yield positive results. These include private telephone lines and a post office box number.

Other investigative techniques mentioned by participants included

- establishing a central data base,
- integrity testing (see previous discussion),
- polygraph testing,
- profiling,
- civil court actions to exert pressure on an individual.

In the course of this discussion it was pointed out that prior to any investigation one must determine the source of authority for such an investigation, i.e., what are the jurisdictional grounds, as well as a definition of the suspected offense. As mentioned previously, once these steps have been taken, the investigator can proceed by using any one or combination of the above techniques.

Although not a direct focus of this discussion, participants emphasized the need for preventive techniques when confronting corruption in inspectional services. Training and education of employees as well as the public is an important part of that procedure.

It became evident during the discussion that, despite the cultural difference between the participants, their experiences in dealing with the problem of corruption in municipal government have been strikingly similar. This opportunity to exchange views was an important first step in establishing a continuing line of communication among anti-corruption personnel in various parts of the world.

Concluding Remarks to Panel

By: Deputy Chief Investigator
Robert Gardner

The "turn-around Operative" An Investigative
Technique. An Effective Method of Dealing
with Inspectional Services Corruption and Fraud

One of the functions of government is to insure that the services and products we use and consume meet acceptable standard of serviceability and wholesomeness. In order to fulfill this responsibility governments, by and large, employ inspectional staffs whose task is to insure that these standards are met. However, all too often the judgement and discretion of these inspectors are inappropriately and/or criminally influenced by those who fall under their jurisdiction. Or in other cases, members of these inspectional teams use or abuse their public office for their own monetary gain. As we have discussed there are a number of investigative approaches which can be employed to identify and thwart inspectional corruption. In this paper I will discuss the use of "operatives" in the investigation of inspectional corruption and the operational and tactical consideration which may come into play when employing such a technique.

The investigation of inspectional corruption is a challenge even to the most experienced investigator. The challenge lies in the fact that most inspectional corruption goes unreported. This condition exists, by and large, because there is no victim per se. Usually there is some agreement between the bribe giver and the inspector where both parties benefit. The bribe giver may be able to short-cut some bureaucratic practice or circumvent some rule of regulation which reduces his profit margin. The inspector, on the other hand, usually receives some benefit for his services. This benefit can take many forms: cash, equipment, supplies, repairs to the inspectors home, theatre tickets, etc. This scenario leaves the corruption investigator without the traditional starting points of most criminal investigations, an aggrieved party. One investigative approach to overcoming this problem is by employing "operatives".

For the limited purpose of this discussion the team "Operative" will be defined as an individual employed by government on a confidential basis to seek-out and detect specific information needed by government. I have classified "Operative" into five(5) general categories:

- I. Turn-a-rounds
- II. Paid Informants
- III. Undercover Agents
- IV. Field Associates
- V. Cooperating witnesses

Each of these categories of "operative" has it's pros and cons in a given situation. I will discuss the employment of "turn-a-round operatives" in inspectional corruption inquiries.

The Turn-Around

A "turn-around" generally is an individual who has been confronted by the government with charges that he or she is a party to a corrupt scheme. After providing this individual with an indication of the evidence against him the government gives the person an option cooperate with the government and possibly help himself with the pending criminal problem; or not cooperate with the government and suffer the outcomes of criminal indictment, trial and sentence without government consideration or intervention. If this individual agrees to cooperate fully and completely he or she is classified as a "turn-around". The nature of government consideration may range from a recommendation of leniency on the day of sentence to a actual grant of Immunity on all charges against the operative. Certainly, such considerations are not made or entered into by the investigative agency, without the expressed approval of the prosecuting authority such as the United States Attorney or the local District Attorney.

The "turn-around" is generally a co-conspirator and/or an accomplice who is or who has been a party to a criminal scheme. Holding such standing the "turn-around" should ideally have the ability to completely and candidly apprise the investigative team of the modus operandi of the particular scheme. He or she

should be able to provide the following intelligence information:

- 1) Identity of other participants in the scheme.
- 2) The structure, if any, of the corruption scheme.
- 3) The amount, manner of payment and the extent of pay-offs.

Furthermore, the "turn-around" in addition to providing intelligence information should be able to provide and develop direct evidence against many, if not all of those who are a party to the scheme. This direct evidence can take many forms such as:

1. Admissions made by other participants to the Operative during the course of conversations which are covertly but legally tape recorded.
2. Identifying and locating physical evidence, i.e., business records, bank locations etc.
3. Identifying potential witnesses and complainants.
4. Identifying specific instances where the corrupt scheme took place and corroborating those occurrences.
5. Translating coded or cryptic messages or notations made by himself or others in furtherance of the corrupt scheme.
6. Assist in developing criminal cases against bribe givers, who then may become candidates for "turn-around" operative positions.

In addition to obtaining direct evidence of corrupt activities the "turn-around" serves as a valuable source of day to day intelligence. He is the individual who can supply the needed indepth insight into the corrupt practices of a given governmental agency so that investigative strategies can be tailored to uncover and thwart the illicit practices.

Furthermore, these individuals may be able to introduce an undercover police officer into the scheme, thereby reducing the direct involvement of the "turn-around" and possibly insulating him from inadvertent discovery. This "turn-around" classification of operative would appear to have all the ear markings of an investigative panacea. However, the employment of such an individual can be quite risky and sometimes dangerous if operational and tactical considerations are not fully and completely analyzed.

As an operational commander of corruption inquiries employing the "turn-around" technique, I would like to share with you some of the tactical and operational considerations one should be sensitive to. Some of these considerations are:

Selection

There is a law enforcement adage which states that "the first one through the door gets the best deal". This proverb implies that the first conspirator who cooperates with the authorities negotiates the most beneficial deal for himself. We in law enforcement must attempt to insure that the individual we select for a "turn-around" candidate meets our investigative needs without compromising the ultimate objectives of our investigation. This requirement is met by developing a stringent selection process. Ideally the selection process should attempt to identify those candidates who are the least culpable but who have access to the individuals and information that the investigative teams have determined are targets of the inquiry. It would certainly seem inappropriate to "turn" an individual in charge of a unit which is corrupt in order to develop criminal or administrative cases against his subordinates.

Control

Another aspect one must consider when coordinating and directing a "turn-around operative" is total control of that operative. This control is gained and maintained by close and continuous supervision. The operatives should be informed that no contact is initiated with any target of the investigation without prior approval of the investigative supervisor. Inadvertent contacts should be minimized or postponed on some pretext and notification made of this contact as soon as possible. The operative should be cautioned that his agreement with the government is based on his complete and candid cooperation. If that commitment is in any way violated by the operative the agreement could be voided.

Another control measure that can be taken is that the informant should never be made fully familiar with the recording and transmitting capabilities of the eavesdropping equipment he may have occasion to use. Ideally, the effective range of this equipment should be understated and the interrelationship between various pieces of equipment should not be expanded upon. This approach, in many cases, can detect if a "turn-a-round" is attempting to compromise a situation or alert the other party to the fact that he is "wired". An example of the benefits of this type of control occurred when a "turn-a-round" was directed to have a conversation with his superior concerning their involvement in a wide scale and lucrative bribery scheme. After obtaining the operative's permission to record his entire conversation with the superior, the "turn-a-round" was advised to attempt to gain the incriminating conversation within the first twenty minutes of their meeting due to the recording capacity of the equipment. The operative met with his superior and initially engaged him in conversation during their automobile trip to work. However, shortly after exchanging amenities all conversation stopped twenty-five minutes later the informant re-engaged his superior in conversation and advised him that he was arrested by the police and that the police had equipped him with a concealable recorder in an effort to implicate him (the supervisor) in the bribery scheme. The "turn-a-round" told the superior that he had permitted the recording device to "run-out" and that they could talk freely and attempt to conjure up an alibi for the superior. Unbeknownst to

the operative the recording time of the concealable tape recorder was over two hours and the entire conversation was gleaned.

In other situations we have had "turn-a-round" operatives alert intended subjects in whispered tones that they were wired. We were able to capture this exchange due to the sensitivity of our equipment. Being aware of this situation any statement made by the subject can be evaluated within that context.

Training

The "turn-a-round operative" is classified as an agent of government and his conduct and performance will be held up to close scrutiny. In order that the operative's performance can withstand the acid test of an adversary proceeding he must be trained to meet the peculiar needs of his assignment. This training program must provide the operative with a thorough understanding of his role as an agent. He must be schooled in such areas as entrapment and personal deportment during his contacts with subject(s) of the inquiry. He must be continually reminded that anything he says or does may be the basis for a question in the future. The investigative team should continually coach the operatives on various approaches and techniques to elicit information. The use of "role playing" skits and prepared investigative scenario can be effective aids in improving operative performances.

Conclusion

The investigation of inspectorial corruption is a challenging area. This particular form of investigative inquiry requires, in many cases, the use of "operatives" to ferret out the various forms of corruption which may exist in a given area. One form of operative which has been used successfully in investigating inspectional corruption is the "turn-a-round operative". However, the success or failure of employing this technique rests with the investigative team; in their selection process, their ability to control the informants and the training program provided to the operative to insure he or she meets predetermined investigative standards.

THURSDAY, SEPTEMBER 18, 1980

Held at Internal Affairs Division, New York City Police Department
Morning Session

Corruption Within the Police Service

Summary of Discussion

By: D.C.I. Ed Siedlick

This session was conducted under the auspices of Internal Affairs Division, Lieutenant Michael Pietrunti, Commanding Officer,

Training Unit, New York City Police Department. Initial discussion centered on the uniqueness of the police service. It is this segment of government that performs a multitude of services in addition to its primary function of enforcing the law. The wide variety of activities performed differentiates the police from other agencies of government which are confined to specific functions. Corruption hazards are increased when the amount of authority is increased. Of necessity the police have a great deal more discretion, which can easily give rise to corruption hazards. When persons have such authority, there will always be a potential to abuse the power to advance personal gain. It is therefore a necessity that the government maintained a certain amount of control and monitoring ability to minimize possible corrupt acts.

The City of New York through Executive Order 16 requires that the police maintain an Inspector General. The Internal Affairs Division is the enforcement arm of this mandate. Additionally, the Police Department has taken the concept of decentralizing one step further by establishing a rather proficient network of monitoring and control. One of the most important approaches to combating corruption is to get everyone involved. In the New York City Police Department, field commanders and superior officers are held accountable for the actions of their subordinates. In addition to the Central Internal Affairs Division, each major bureau and division has their own small Internal Affairs Unit under the command of the respective field commanders. Each precinct has its own Integrity Control Officer. No commander can say that it is not his task to police his own personnel. If commanders are to be held accountable, they must have the tools necessary to complete this end.

Correction and Serious Misconduct Patterns

Discussion followed on the overall numerical trends of corruption allegations in an attempt to quantify patterns and certain factors that influence them.

One of the most important trends carefully scrutinized by the Internal Affairs Division is the number of cases developed each year from allegations that are received. Certain outside factors that pertain to these numbers have a probable direct bearing on statistics. Following is a listing of these factors:

1) Manpower

During 1972, 1973 and 1974, allegations numbering in the 3000's were high in contrast to subsequent years. However, in those years, the staffing of the Police Department was at much higher level. In 1975, the Police suffered from massive budgetary layoffs.

2) Media Coverage

There appears to be a direct relationship between positive and negative media coverage and the amount of complaints. During 1972 to 1975 period, the public was exposed to extensive negative media coverage related to the Knapp Commission hearings and subsequent arrests and indictments of police officers. However, in 1976, the Department recorded its lowest number of complaints (2056). In 1976, the police enjoyed overwhelming positive media coverage related to the Democratic Convention and Op-Sail.

3) Integrity Programs

From 1976 to the present, the Police Department has instituted various programs to upgrade the integrity of its officials. These include Integrity tests, Ethical Awareness Workshops, Police Academy Integrity Training for Recruits and the inclusion of the Internal Affairs Division in local area training programs.

Currently statistical data indicates that there is a 22% decrease in the number of allegations received for the first six months of 1980. Complaints regarding the acceptance of gratuities and narcotics related allegations have also decreased during the past year. However, crime and serious misconduct allegations have risen with a large percentage related to off duty conduct. Indeed, the majority of arrests and suspensions of police officers are for off duty incidents.

Integrity Testing

An innovative, if not controversial, program of Integrity testing has been initiated by the Police Department in its goal of reducing the level of corrupt acts by its members. This program was developed in August of 1973. When a series of complaints or intelligence indicates a potential area of possible corrupt activity one of management's options is that of conducting an integrity test. Undercover officers create incidents which members of the police service react to in performing their normal duties. This reaction is measured against Department standards defined in its Rules and Procedures Manual.

There are basically two (2) types of tests. The first is the subjective method which targets particular police officers thus affirming or negating an allegation that questioned that particular officer's performance or integrity. The alternate method would be the employment of Objective tests which are designed to test the systems by which functions or rules are being complied with.

It should be pointed out that these integrity test are only originated in response to intelligence information or allegations that point out reductions in efficiency or integrity.

The results of the tests have revealed in certain instances, shortcomings in particular areas of police performance. This has enabled the Department to amend its administrative manual and to institute training where appropriate. Sometimes, disciplinary action has been taken against police officers who have blatantly disregarded procedure or, without mitigating reasons have failed to perform as obligated.

Methods of Conducting Internal Interrogative Hearings

The final subject that was discussed concerned the procedures and standards utilized in conducting official interrogations of police officers. Strict adherence to guidelines set up by the Police Department is required of all Internal Affairs personnel to insure that the individual police officer's constitutional rights are guaranteed and that his answers can be effectively used in any subsequent departmental hearing.

Generally these guidelines centered on the following subjects:

a) Notification

A police officer is given 2 business days to prepare for the hearing and obtain counsel should he or she so choose.

b) People Present

Police Officer is entitled to an attorney of his choice and/or a member of his union.

c) Immunity

The employee is afforded testimonial immunity when he is under arrest or is the subject of a criminal investigation, or there is a likelihood that criminal charges may result from the investigation.

d) Accusation

A police officer is provided with information as to the nature of the accusation, the identity of the person making the accusation and whether he is the subject or a witness in the investigation.

e) Atmosphere of Hearing

Offensive language or threats of transfer, dismissal or other disciplinary punishment as well as promises of reward for answering questions are forbidden. The length of the questioning period will be regulated with breaks for meals, personal necessity and telephone calls provided.

f) Resistance to Questioning

Police officers who refuse to answer questions during hearings are subject to dismissal or suspension.

g) Types of Questions

The employee will be asked questions specifically directed and narrowly related to the performance of their duties.

After a question and answer period the session was concluded by Lieutenant Pietrunti. The participants all agreed that the lecture demonstrated that the Police Department has an aggressive and innovative approach in managing integrity among its officials. They have fully implemented the Mayor's Executive Order No. 16 and are a classic example of the successes of the decentralized anti-corruption program mandated by the City. The training session was most productive in showing that this particular agency of municipal government has efficiently and effectively dealt with the problem of corruption.

Held at the United States Courthouse, Brooklyn, New York

Afternoon Session

Corruption Investigation and Prosecution under Federal Law

Summary of Discussion

The purpose of this training session was to expose the students to both the theories and practices of white-collar prosecution under federal law. Assistant United States Attorney Ronald G. Russo, Chief of the Official Corruption/Special Prosecutions Unit in the Eastern District of New York addressed the group and stated that the United States Department of Justice had recently given the highest priority to the investigation and prosecution of white-collar crime with a special emphasis on political corruption. Mr. Russo discussed the complexities of such investigations, many of which require the concerted effort of a full-time investigator for 18 months or longer. Also discussed were the difficulties encountered in investigations which involve voluminous document searches and the general means of conducting such investigations.

1. Investigation:

Mr. Russo noted the difference between law enforcement which reacts to reports of crimes or wrongdoing and the so-called "proactive" investigation where the search for the criminal conduct is commenced by the Government prior to any report. Such "proactive" investigations have generally taken a more systematic approach, attempting to attack entire businesses or industries where, based on intelligence gathering, corruption in the form of kickbacks to public officials are likely. An example cited was the construction industry in the City of New York with respect to

the manner in which construction contracts are bid on and let. Basic background in such an investigation would require intimate knowledge concerning how the contracts are awarded; by whom; what is the discretion of the public employee or official in awarding such contracts; does a particular individual or company appear to monopolize the market. In such an investigation access to company records would be critical in determining whether there has been any unusual cash generation. As can be seen, such investigations could easily be long-term projects.

II. Prosecution:

Mr. Russo noted that two federal statutes which are often used in corruption prosecutions are commonly known as the Hobbs Act (Title 18, United States Code, Section 1951) and the RICO Statute (Title 18, United States Code, Sections 1961-3).

A. The Hobbs Act

Under this statute it is unlawful to interfere with or affect interstate commerce in any way by the extortion, "under color of official right," of anything of value. The Hobbs Act is commonly used in prosecutions of this sort since the term extortion has a very broad meaning under the case law which construes the statute. While the classic extortionate demand is certainly included, such as threats of physical violence, extortion "under color of official right" has been interpreted to mean any wrongful taking of something of value by a public official. Mr. Russo explained that no threat need be made or even implied in a Hobbs Act prosecution where the charge is that the extortion was made "under color of official right". In such cases, the public official's position or status supplies the element of threat or extortionate demand. Indeed, the person who is the "victim" may well be the initiator of the payoff who is trying to obtain some benefit from the official. Mr. Russo stated that the federal courts have held that bribery and extortion "under color of official right" are not mutually exclusive. Accordingly, the Hobbs Act is viewed as a powerful weapon in prosecuting cases of public corruption.

B. The RICO Statute

RICO is an acronym for the Racketeer Influenced and Corrupt Organizations Act of 1970. This statute, which is more complex than the Hobbs Act in terms of its proof, makes it illegal to conduct the affairs of an enterprise, which affects interstate commerce, through a pattern of racketeering activity. The terms "enterprise" and "pattern of racketeering activity" are terms of art carefully defined by the statute. In short, Mr. Russo explained that a pattern of racketeering activity is two or more violations of certain federal felonies enumerated in the statute, including the Hobbs Act, or two or more felony violations of enumerated state statutes including bribery and extortion. Because the federal prosecutor can use conduct which is felonious under state law to build the case, this statute is particularly useful in joint investigations conducted between the U.S. Attorney's office and state and local investigative agencies such as the City

Department of Investigation, or the State Narcotics Joint Task Force. In addition, because RICO permits the Government to charge and prove a "pattern of racketeering activity" systematic corruption can be charged as what it is--a pattern of illegal conduct--rather than going to trial on a series of individual or isolated instances of wrongdoing.

Of the most significant propositions put forth during this segment of the training session was the idea that local investigatory agencies can develop evidence of corruption and directly present it to a federal prosecutor. The application of the Hobbs Act and RICO Act add a powerful and effective weapon to an anti-corruption agency in its mission of detecting and eliminating corruption. The Department of Investigation's recent successful prosecution of the Marshalls Bribery-Conspiracy Case is a classic example of this principle. This case which is discussed further on in the Session, has applied Hobbs Act, RICO, and mail fraud to local government corruption which affected interstate commerce. The participants will be exploring possible applications of the concept when returning to their respective jurisdictions.

Friday, September 19, 1980

Held at the Office of the Special State Prosecutor for the Investigation of Corruption in the Administration of Criminal Justice in the City of New York

Introduction of Mr. Richard Condon, Special Prosecutor's Office

By D.C.I. Ed Siedlick

Ladies and gentlemen our next speaker, Mr. Richard Condon is the Director of Investigations for the Special State Prosecutor for the Investigation of Corruption in the Administration of Criminal Justice in the City of New York.

Dick Condon is a former member of the New York City Police Department where he attained the rank of Deputy Inspector.

He holds an A.B. degree from Pace College as well as an M.A. in Criminal Justice from John Jay College.

He was the first member of the New York City Police to graduate from the Command Course at the Police College, Bramshill, England.

Dick has been a leader in the anti-corruption effort in New York City and an active supporter of these training sessions.

Let us welcome then, Mr. Richard Condon

The Special State Prosecutor to investigate the Administration of Criminal Justice in City of New York

Thank you, Ed. In New York City as well as throughout the rest of New York State crimes are normally prosecuted by the elected District Attorney of the County in which the crime occurs. In recent years, however, "Special Prosecutors" have been appointed by the Governor to look into and prosecute wrongdoing in a number of carefully delineated situations. There have generally been three types of situations which have resulted in the Governor, through the State Attorney General, superseding an elected District Attorney.

The first such situation has been when the district attorney was himself accused of a crime or where the conduct of his office was open to question. There have been at least two such occurrences in New York State in the last two years which have resulted in the appointment of a Special Prosecutor.

The second category of investigation which has resulted in the use of a Special Prosecutor is one in which it has been necessary to pursue all the ramifications of a particular event and it was felt that an independent prosecutor would be the best person to conduct the investigation. In New York State the

prison riot at Attica which resulted in 43 deaths was investigated by just such a Special Prosecutor. On a national level, the Watergate burglary and its aftermath is probably the most famous instance of this use of a Special Prosecutor.

The third use of a Special Prosecutor and the one which is the subject of this lecture is the one in which a Special Prosecutor is appointed to exercise jurisdiction over particular category of crime. This is a controversial use of the power of "superceder" as it confers exclusive or, at least, concurrent jurisdiction on a prosecutor other than the elected district attorney. In New York State the Special Prosecutor for Nursing Homes, Health and Social Services is an example of a prosecutor who exercises concurrent jurisdiction with the local district attorneys in the area of fraud in the health field.

The Office of the Special State Prosecutor for the Investigation of Corruption in the Administration of Criminal Justice in the City of New York (hereafter referred to as the Office of the Special Prosecutor) is the most controversial office to be created by superceder. This is true for a number of reasons. The jurisdiction of the office is limited to New York City as opposed to the entire State. Jurisdiction encompasses the entire criminal justice system although the office was created after findings of police corruption only. The Special Prosecutor has primary rather than concurrent jurisdiction over the subject matter. The first Special Prosecutor appointed by then Governor Rockefeller was Maurice Nadjari who during his time in office was accused of disregarding the civil rights of potential defendants in order to make cases.

The Office of the Special Prosecutor came into being as a result of a series of events which began in the late 1960's. During that period of time two New York City Police Officers went to a number of high police and city officials with allegations of widespread police corruption. Their allegations were not investigated. Frustrated, the officers went to the New York Times which verified their information and published a series of articles beginning in April 1970. The Mayor of New York City appointed a committee to look into the allegations. This committee known as the Rankin Committee, consisting of the Corporation Counsel, the Commissioner of Investigation, the Police Commissioner and the District Attorneys of New York and Bronx Counties, met several times and recommended to the Mayor that he appoint a full time commission to investigate the allegations thoroughly. The committee felt that it could not devote the time and resources necessary to investigate the allegations and also that some of its members might be, at least, indirectly responsible for the corruption to be investigated.

Based upon the recommendation of the Rankin Committee, in May of 1970 the Mayor appointed a Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures. The name was blessedly shortened to the Knapp Commission after its Chairman Whitman Knapp, a former assistant district attorney then in private practice and now a federal judge.

The Commission documented widespread corruption in the Police Department especially in the areas of narcotics, gambling and vice enforcement but also in virtually every area where a lack of enforcement could earn its own rewards.

The Commission held public, televised hearings over a period of weeks. These hearings were extensively reported and were followed by a 275 page report detailing the corruption found and recommending the appointment for a Special Deputy Attorney General with jurisdiction in the five counties which comprise New York City and authority to investigate and prosecute all crimes involving in the criminal process.

In September 1972 the Governor issued a series of Executive Orders creating the Office of the Special Prosecutor and directing the Attorney General to appoint a Deputy Attorney General to head the office. The jurisdiction of the office as spelled out in the orders encompassed the following:

a) any and all corrupt acts and omissions by a public servant or former public servant occurring heretofore or hereafter in the County of New York in violation of any provision of State or local law and arising out of, relating to or in any way connected with the enforcement of law or administration of criminal justice in the City of New York;

b) any and all acts and omissions and alleged acts and omissions by any person occurring heretofore or hereafter in the County of New York in violation of any provision of State or local law and arising out of, relating to or in any way connected with corrupt acts or omissions by a public servant or former public servant arising out of, relating to or in any way connected with the enforcement of law or administration of criminal justice in the City of New York;

c) without limiting the foregoing provisions, any and all acts and omissions and alleged acts and omissions by any person occurring heretofore or hereafter in the County of New York in violation of any provision of State or local law and arising out of, relating to or in any way connected with the receipt, possession, or disposal of dangerous drugs by the Police Department of the City of New York, its officers, employees, or agents;

d) any and all acts and omissions, and alleged acts and omissions occurring heretofore or hereafter to obstruct, hinder or interfere with any inquiry, prosecution, trial or judgment pursuant to or connected with this requirement.

The other Executive Orders spelled out the same jurisdiction in the four other counties which make up New York City. It should be noted that subdivision "c" of the Order was added at a later date in order to give the Special Prosecutor authority over the investigation into the theft of the so called "French Connection" narcotics from the Property Officer of the Police Department.

The Executive Orders also spelled out a number of specific crimes including bribery, perjury and official misconduct which would come under the Special Prosecutor's jurisdiction.

The criminal justice agencies most affected by these Orders were the district attorneys, the judiciary, correction, the criminal bar and the various police agencies including the New York City, Transit Housing and Port Authority Police.

While the statutory jurisdiction appeared to be quite broad, a number of court decisions served to limit it. One case brought by the Special Prosecutor was dismissed on the grounds that a bribe offered to a policeman was for altering his testimony in a civil case. The court held that the Special Prosecutor's jurisdiction was limited to the investigation and prosecution of crimes connected with the administration of criminal justice.

A second court decision dismissed an indictment against a Surrogates Court Judge on the grounds that the Surrogates Court was not part of the criminal justice system. Other decisions have had a similar limiting effect on the scope of the Special Prosecutor's activities.

The Office of the Special Prosecutor has been in existence for more than eight years. In that period of time the office has obtained some 490 indictments covering 641 defendants. These defendants have included 190 police officers, 20 corrections officers, 33 attorneys, 17 judges and 102 other public officers.

Of the defendants indicted, 115 have had their indictments dismissed 50 have been acquitted after trial, 323 have pleaded guilty and 60 have been convicted after trial. Ten of these convictions have been reversed on appeal.

The most significant setback the office has suffered has been in the prosecution of judges. Of the seventeen judges indicted, only one was convicted and that conviction was reversed on appeal. The first Special Prosecutor, Maurice Nadjari, had proclaimed that there was widespread corruption in the judiciary and his failure to substantiate this corruption led to his dismissal and replacement by the Governor in June of 1976. Nadjari's successors, John Keenan and Roderick Lankler had been spared the hostility accorded to Nadjari and have generally been viewed as running the office in a professional manner.

The Special Prosecutor's Office investigates allegations of corruption in one of three ways. The office may rely entirely on its own staff of approximately 60 investigators, including auditors for financial inquiries, to conduct the investigation. The office may monitor an investigation being conducted by another agency or the office may conduct a joint investigation with another agency, utilizing both its own resources and those of the other agency.

One such agency that the Special Prosecutor's Office has worked with over the years is the New York City Department of Investigation. The Department of Investigation has uncovered a number of significant situations involving corruption in the

criminal justice system, has brought these to the attention of the Special Prosecutor's Office, and has worked jointly with the Special Prosecutor's Office to investigate these situations.

Before a local district attorney can begin a prosecution in the criminal justice area, he must inform the Special Prosecutor of the facts in the case and request authorization to proceed. The Special Prosecutor may authorize the local district attorney to prosecute or may deny the authorization and require that the evidence in the case be turned over to the Special Prosecutor. In the later event, the Office of the Special Prosecutor conducts the prosecution.

In addition to investigating allegations brought to the Special Prosecutor's attention, the office also conducts self-initiated investigations into conditions which in the past had resulted in corrupt acts of a widespread nature. The office has also been able to recruit personnel from within some of the agencies in the criminal justice system who have volunteered to keep the office informed of any wrongdoing within their agency.

Recently the office has been asked to investigate some matters that are not strictly within its jurisdiction. Two such matters were the shooting death of a civilian by an investigator from a prosecutor's office and the conduct of an investigation into the killing of a police officer by a black Muslim. In neither case would the Special Prosecutor normally have jurisdiction. In the first case, the local district attorney did not want to investigate his own employee. In the second case, the Governor of the State requested that the Special Prosecutor look into allegations of a coverup on the part of police officials in the shooting death of the patrolman. In both instances, the existence of the Office of the Special Prosecutor provided a vehicle for an objective investigation by an impartial agency.

The office staff consists of approximately 30 attorneys, 60 investigators and clerical and administrative support. Both the attorneys and investigators are divided geographically into bureaus covering the five counties in New York City. This facilitates working with their counterparts in the county prosecutors offices and the various police units. It is also a logical division in that cases must be presented to grand juries within the Counties where the alleged crimes occurred.

In addition to the five line Bureaus there is also an Appeals Bureau. The Investigations Bureau is supported by an Intelligence Unit, an Audit Section and a Technical Section which maintains surveillance equipment.

The current Special Prosecutor and his predecessors have stated publicly that the Special Prosecutor's Office should be made a permanent arm of the State government. As John Keenan had stated when he was Special Prosecutor, "The continued existence of the Office of the Special Prosecutor is a needed guarantee for society that a force exists, the sole purpose of which is to combat public corruption". Although we are a state agency, the

Special Prosecutor's Office plays a vital role in New York City's overall anti-corruption effort. By employing our resources in the specialized area of criminal justice, the Department of Investigation can free its own forces for the unified and overall attack on corruption which is mandated under Executive Order 16. This combined approach has been extremely effective in the past and in my judgement, will continue to be so in the future.

Thank you.

Monday, September 22, 1980

Held at New York University Graduate School of Business Administration

Introduction of Joy Dawson, Inspector General Liaison
and Training Session Coordinator.

By D.C.I. ED Siedlick

9:15 a.m. I am sure that our next speaker needs no introduction since she has been intimately involved with the training session as the course coordinator. I might also add that Joy Dawson has been with the Department's training program since its inception several years ago and has been one of the reasons for its successful evolution into its current stature. In addition to training, Joy has been responsible for the design and implementation of this City's Inspector General program. This program is now in its third successful year and is serving as a model for similar programs in other cities. Joy is a graduate of Brooklyn College. She received her Masters degree in Anthropology from Hunter College, with a speciality in Urban and Political Systems.

Joy is going to outline the current organization and structure under which the City of New York attacks its corruption problem.

The Organization and Structure of
Corruption Investigations Within
New York City

By: Joy Dawson

Good Morning. At this point in our session I shall try to put into perspective for you the mandate under which we operate, the interaction of our various components and the responsibilities with which we are charged.

The Department of Investigation has jurisdiction over all New York City agencies and employees as well as individuals and entities doing business with the City. The Commissioner of Investigation has the authority to inquire into virtually any aspect of this City's operations. This wide-reaching authority is mandated

by law. Under Chapter 34 of the New York City Charter, the Commissioner of Investigation "...is authorized and empowered to make any study or investigation which in his opinion may be in the best interests of the City, including but not limited to investigations of the affairs, functions, accounts, methods, personnel or efficiency of any agency." The Commissioner is appointed by and reports directly to the Mayor of the City of New York.

In order to accomplish such a broad scope of tasks, the Department is composed of staff that is proficient in many different fields. We have a legal and administrative staff, a squad of experienced police officers, a staff of accountants and another of systems analysts and computer experts. We have had on staff, a civil engineer and a handwriting analyst and have access to sophisticated technical equipment and expertise.

To give you some idea of the eclectic nature of our work, we have had investigations into such matters as bribery of high level officials, improper awarding of contracts to companies that repair and maintain street lights, impersonation of medical personnel in City hospitals, theft of money from parking meters, and improprieties within the county morgue.

Our cases originate from all sources. Commissioners of agencies might indicate suspicions to us, employees make allegations about other employees, the public telephones and writes letters of complaint, etc. We also initiate studies in areas we think might be potentially corrupt. We are particularly sensitive to certain areas that are most commonly ripe for abuse, such as any cash intake points (where fees are paid for licenses, for example), where a good measure of discretion may be exercised, (in awarding contracts or grants), and where there exists any authority to sanction (for instance, with inspectors who are authorized to issue summonses for violations).

In July of 1978 the Mayor issued an Executive Order creating a formal, City-wide Inspector General program under the direction and supervision of the Commissioner of Investigation. Prior to this Order (Mayor's Executive Order No. 16 dated July 26, 1978), there were Inspector General Offices in about ten agencies including the Parks Department, Fire Department, Transportation Department, Sanitation Department, and others. These Inspectors General were responsible for receiving and investigating complaints and allegations regarding their respective agencies and reporting back to DOI the results of their efforts. The bulk of their work was referred to them by this Department's Complaint Bureau which is a centralized reception point for such complaints. A large percentage of these referrals concerned complaints received from the

public regarding lack of adequate service. For example, many complaints are received in the winter regarding a lack of heat or hot water in City owned and operated buildings; citizens may bring to our attention undue delays in refuse collection or broken park equipment that may present a hazard, etc. Upon receipt of these referrals the Inspector General would check to see whether the problems did actually exist, if they were being addressed by the appropriate unit of the agency, and also, whether the condition existed because of any misconduct on the part of City employees. In the event of any finding of criminal conduct the Department of Investigation would then conduct an inquiry into the matter, sometimes calling upon the Inspector General for prosecution.

These Inspectors General came from a variety of backgrounds. Some were police officers and some were former FBI agents, while others had served in various capacities within their respective Departments.

The value in having experienced people to conduct investigations from within the agencies themselves was obvious. Hence, a movement was begun which culminated in Executive Order 16. With this, the Mayor sanctioned what was in essence an expansion and a decentralization of the Department of Investigation. It was mandated that there be an Inspector General for each City department or agency who shall report directly to the agency head and to the Commissioner of Investigation.

Twenty-three Inspector General offices were established under this Order. Some of the smaller agencies were subsumed within the I.G. jurisdiction of larger ones, usually those whose functions were similar or in some way related.

Responsibilities of Inspectors General are now twofold: Investigation and the prosecution of administrative disciplinary actions. Section 3(a) of the Mayor's Order charges Inspectors General with the responsibility for maintaining standards of conduct within their agencies. Investigation may be conducted into areas of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence. In the course of such investigations, Inspectors General have the authority to examine or remove documents prepared or maintained by their respective agencies. Furthermore, Section 4(c) gives to employees of the City an affirmative obligation to cooperate with Inspectors General in their investigatory efforts, and Section 4(d) mandates the reporting of any information concerning improprieties on the part of fellow employees. The effect then, of the Mayor's Order and of the formalization of the program as a whole, was to decentralize the case intake system. Fewer complaints are now received at DOI and a greater number are received directly by IG's. The IG is responsible for setting his or her own priorities with respect to investigations, except where there is an allegation of corrupt or other

criminal activity or conflict of interest. When in receipt of such an allegation, the Inspector General is required to report such information to the Department of Investigation, and then proceed according to the Commissioner's direction.

The second sphere of Inspector General influence is in administrative disciplinary actions. Prior to the IG program, the Department of Investigation found that there was no single unified disciplinary system existing in the City. Some agencies had archaic systems of command discipline and some had no "system" at all. Some agencies had Deputy Commissioners who also functioned as part-time Hearing Officers (Judges at an administrative trial), while others hired retired Judges on a per diem basis. Evidence was often incomplete and sloppily presented by non-professionals, often an employee's supervisor.

In order to create a workable, fair disciplinary system, City-wide, the function of investigating and then administratively prosecuting an employee was given to the Inspector General. At the same time, a centralized pool of Hearing Officers was established. Created, was an Office of Administrative Trials, comprised of experienced lawyers, to act as judges. They were given space for trial rooms and could docket and calendar cases in a timely fashion. The entire emphasis was to professionalize the system.

Along those same lines, the Inspectors General that were hired to fill the new positions were all attorneys with several years of prosecutory trial experience. A case could now originate in the IG office and be investigated and prosecuted there, assuming of course, there were no other elements except those that could be handled solely within the jurisdiction of the agency involved. Anything beyond the bounds of the agency, i.e., involving more than one agency or a high level official or a crime, could also originate and be investigated by the IG but would have to be supervised by the Department of Investigation and then turned over to either the District Attorney or the United States Attorney for prosecution within the courts.

Now, I mentioned earlier that the Department of Investigation does more than investigate cases. We also do audits and management studies. So, too should the Inspectors General. Because we advocate these activities we have made it possible for the Inspectors General to hire staff with a broad range of expertise. The title of Confidential Investigator was created and assigned solely for these offices. To qualify for a job within that title an individual must have either a college degree in an area of criminal justice, police or forensic science, auditing or accounting. Alternative qualifications also include several years' experience within the particular hiring agency. This allows, for example, for the Inspector General at the Buildings Department to hire someone

with construction experience, or someone who knows how a building should be inspected. Accountants might be a useful addition to Finance Department I.G. staff, or an architect in Housing Preservation and Development. We could now hire attorneys to read leases and contracts and assess their quality and integrity.

Because of the heightened degree of the quality of cases that now could be handled, a greater number could be sustained, and the City has increased cooperation with State and Federal prosecutors, who not only work with us on cases, but also participate in our training sessions.

The professionalized disciplinary system allows employees to face a fair and timely hearing with assistance of counsel. Better cases are made, and employees are not harassed by inconsequential attempts by overzealous supervisors.

There is now a network of relationships enhanced by open lines of communication among City agencies and among the various levels of government. It is my hope that this shall continue. Thank you.

4:00 p.m. Introduction of Milvia DeZuani, Esq. and
Fred Mehl, Esq. Program Fraud Unit,
Department of Investigation

By Joy Dawson

Our next speakers are two people who are specialists in the area of program fraud. Milvia DeZuani, an Examining Attorney at the Department of Investigation, holds a B.A. and a J.D. from Temple University. Fred Mehl, also an Examining Attorney with this Department is the holder of a B.A. and M.A. degrees from Yeshiva University and a J.D. from New York Law School. In addition, Fred is a former prosecutor from the Kings County District Attorney's Office. The Department of Investigation began its program fraud unit in 1979. Milvia and Fred have played a significant role in that unit and are here today to share with you some of their experiences in and knowledge of a fascinating investigative area, program fraud.

GOVERNMENT PROGRAM FRAUD

The Program Fraud Unit was established in April of 1979 by Commissioner Stanley N. Lupkin. The stated goals of the unit as developed by Commissioner Lupkin and Deputy Commissioner Brian Barrett were to create an area of expertise in the area of programs funded by Federal, State and City governmental agencies, to establish a body of knowledge regarding such programs, and to evaluate systems of accountability, performance, and law enforcement in said programs and to identify potential areas of corruption.

Generally, the prosecutorial agencies are reactive in nature and respond to specific allegations of past crime. By their very nature, these agencies are not involved at the inception of criminal case in this area nor are they equipped to conduct initial investigation into possible cases of wrongdoing.

Specific cases assigned to the Unit have been viewed with a perspective toward understanding the general mode of operation of similar programs. For example, in analyzing a specific federally-funded program, we have ascertained the steps required by all prospective contractors in negotiating such a contract. We have surveyed procedures that monitor program performance in general and analyzed enforcement methods available to governmental agencies where the contractor's performance has been unsatisfactory. In this fashion, we have used assigned cases as spring boards from which to study programs and to interpolate findings to other similar programs.

The range of government programs is wide and complex. Funds are provided for job-training in the public and private sector; housing construction and rehabilitation; housing management and maintenance; health care; senior citizen nutrition, health, housing and recreation; community development funds; day care and pre-school programs; commercial and industrial grants, loans, and tax incentives; Comprehensive Employment Training Act (CETA).

Certain federal programs contract directly with individuals or organizations. Other federal programs designate New York City and its agencies as prime sponsors who will contract with local organizations to perform the program's purpose; New York will monitor contract compliance and effectiveness of these programs. There are other programs in which New York City provides local tax levy funds for programmatic activities.

We have met with City officials conversant in the operation of government programs. Among others, the following were interviewed:

Mayor Edward Koch's representative on the Board of Estimate who votes on the Board regarding final approval of proposed government-funded programs; Human Resources Administration; Department of Social Services, Department of Employment; Corporation Counsel; Youth Board; Comptroller's Office; agency Inspectors General.

The Unit has worked on numerous cases involving food stamp fraud. Our effort has been to identify patterns of actual and potential abuse in the administration of the million dollar program and to uncover fraudulent activity by City employees and food stamp clients. Within the last year, approximately 50 individuals have been arrested or indicted. We have sought to sensitize local prosecutors to the prevalence of food stamp fraud, its profitability, and the need for more vigorous prosecution. Several arrested individuals have received prison sentences exceeding a year.

The Unit worked closely with the Corruption Prevention and Management Review Bureau and the Human Resources Administration Inspector General in the issuance of the November, 1979 report on the Food Stamp Program regarding procedures instituted pursuant to our report. Subsequently, he was apprised of areas of weakness in the innovations and how criminal activity has adapted to some of his measures. We will continue to assess the progress of fraud-preventive measures. In light of recent reports that the nationwide food stamp program will be cut back, it is especially necessary that the New York City system minimize waste, fraud, and overpayment to ensure that qualified persons receive benefits to which they are entitled.

The Unit is completing an investigation into several non-profit organizations who receive government funds for job training and other social services. These groups, although exempt from taking Social Security (FICA) deduction from its employees, voluntarily made such deductions and contributed said funds plus the employer's share to the Internal Revenue Service. Through a provision in the law, the organizations were able to acquire extensive refunds (in one instance \$400,000) from IRS in this regard. One half was to be returned to the contributing employees. The employer's share, which should have been returned to the City and Federal funding agencies, was instead kept by the organization; indeed, the funding sources had no notice of the acquired refunds.

We have referred this matter (including the accountant who improperly received a fee from refunded monies) to the IRS for appropriate action. We are attempting to devise a system with IRS wherein the City can get notice of program funded organizations since the City would automatically be entitled to one-half of the refund where it paid the employer's share of the contribution.

Institution of such a system should save the City much money. The Unit has apprised several Federal funding agencies of the refunds received by the organizations. Efforts by them and the City to gain recoupment are under way.

We have found that for the most part, federal law enforcement agencies have limited contact with their New York City counterparts. A program funded by the New York City may simultaneously be receiving direct federal funding for similar programs. It is our belief that a close working relationship is needed between municipal and federal agencies.

Therefore, we have conferred with regional Federal Inspectors General of these agencies: Department of Agriculture, Small Business Administration, Department of Labor, Department of Health, Education and Welfare, and Department of Housing and Urban Development. We have learned of the Administration and operation of federally funded programs from the Inspectors General (and federal grant managers), and have shared information as to City programs. Cases have been referred for their consideration.

We have learned that City agencies are insufficiently aware of the history of individuals or organizations who apply for funding from an agency. Such lack of information not only makes it difficult for an agency to make a knowledgeable decision concerning funding, but also stymies investigations of alleged fraud concerning programs.

An example of the problem is exhibited in a case recently closed by the Unit. We received an allegation stating that an individual was the director of a number of programs and that the programs were not functioning properly and that money may have improperly been diverted by the director. At the outset of the investigation, it was crucial to know with how many programs the suspect was involved. It was discovered that the City had no coordinated information system to determine what funds, if any, a particular person or group was receiving. Our task at this point was to check with any City agency that might have given funding to the suspect. This system of checking is time-consuming and incomplete. It was also necessary to check whether the suspect was receiving any direct federal funding. Federal funding sources also have no central information system; thus, it was necessary to contact many direct federal funding sources to request information about funding.

After compiling a history of the suspect programs, it was discovered that the suspect had a number of programs involving the following agencies: Human Resources Administration, Department of Employment, Community Development Agency, Department of Housing Preservation and Development, Youth Board, and the Department of

Urban Development. Although this office could find no crimes that the suspect committed, we did find that monies had been commingled between the various programs, certain books and records requested were reported as either non-existent or lost, and financial administration of the programs was poor. It was found that in many instances checking accounts were not reconciled, and vouchers were not prepared for all transactions. Internal controls were lacking as checks could be drawn under a single signature. It should be mentioned that while several programs were found to be operating well in regard to services provided to the community, the accounting procedures followed could not ensure the safeguarding of assets. In light of the information gathered, all of the suspect's programs were defunded by New York City.

This case accentuates the need for computerization of funded programs. Ideally, there should be a thorough history of each program that is funded through or by the City. Such history should be required in a questionnaire of all applicants and should include, but not be limited to, a financial history of the program, stating all funding sources and amounts for the preceding five years, names and addresses of all board members, names of affiliates, subsidiary or parent organizations with whom the contracting program is related, history of prior investigation of these programs and any history of defunding. It is also imperative that this information questionnaire be incorporated into any subsequent contract entered into with the City. Strong sanctions should be stated clearly and applied in cases of substantial breaches, such as material omissions or misstatements.

At the present time the Unit is working with the Mayor's Office to develop such a uniform questionnaire which would be completed and sworn to by all prospective contractors. Such a questionnaire would be implemented with a view toward inclusion of such information into a City-wide computerized system in the future. Such a data bank could save the City substantial sums of money by creating a detailed accounting of where funds are spent, where duplicative programs exist, what geographic areas are under-represented or over-represented in programs with the City and which programs or contractors have continued to receive funding despite incidents of inefficiency or dishonesty.

The Program Fraud Unit will apply for a government grant to review the system of federal and local funding for urban programs. The Unit will operate from the presumption that present arrangements contribute to waste, mismanagement and fraud. This presumption is based on the findings of the Program Fraud Unit in the eighteen months since its formation in light of its evaluation of systems of accountability, performance, and law enforcement in said programs.

It is based too on major investigations of funded programs conducted by other law enforcement agencies. These programs include Medicare/Medicaid, Model Cities, and CETA.

The Unit will not serve as the central agency for the referral of all allegations of program fraud in New York City. It is not intended that the grant fund a Unit whose sole purpose it will be to undertake conventional investigations and prosecutions. Rather, the Unit plans work in three phases: A study phase, an investigation period and a report.

In the study phase, the Unit will determine the number and nature of all programs operated by or through municipal government which are funded in whole or part by state or federal agencies. It will seek to ascertain what portion of the City's budget and individual department budgets are comprised of outside funding. It will also examine bid and award procedures and the regulatory, and contractual arrangements under which the programs operate. The Unit will study what requirements and financial provisions, if any, exist for managing programs, auditing records and investigating misconduct. This phase of the grant will rely principally on the work of the Unit's attorneys and research analysts.

In the second stage of the grant, the Unit will select a limited number of funded programs for investigation. The Unit will chose programs in which it anticipates that mismanagement and fraud are widespread. The selection will be based on findings made during the study phase, as well as prior investigations. The Unit will choose a representative group differing in composition, services rendered, budget, parent agency (local and indirect) and applicable regulations. In conducting the investigation, the Unit will operate with the full authority of the Department of Investigation. Investigators will interview witnesses. Accountants will audit books and records. Where necessary, attorneys will examine witnesses under oath. Ultimately the investigation may conclude with a referral to a prosecuting attorney's office for grand jury action.

The goal of the project will be to measure the effectiveness of the administration of the selected programs and its delivery of services. The Unit will analyze the criteria by which a prospective contractor is evaluated before being entrusted with public funds. It will examine too screening procedures which are utilized to determine that the program director and board of directors have in the past acted honestly and effeciently in administering publicly funded programs.

By scrutinizing the selected programs, the Unit will ascertain the steps all prospective contractors must take before entering such a contract. The Unit will survey procedures that monitor program performance in general and analyze enforcement

methods available to governmental agencies where the contractor's performance has been unsatisfactory. In this fashion, the selected cases can serve as prototypes from which to apply findings to other programs.

The final phase of the grant will be the report stage. The Unit will report its findings and make proposals for changes. The proposals may take the form of suggested regulations, legislation of fundamental reorientations of federal - state - city relations.

The Unit will take into consideration not only its own research, but the legislative intent and social principles and doctrines underlying the "program" concept. This may involve a review of past legislation, political climates over time, comparative economic conditions and strict cost-effectiveness evaluations.

The Unit will instruct relevant City agencies on measures necessary to minimize fraud and misuse of funded programs. Guidelines will be promulgated to ensure that programs operate for the benefit of intended purposes. It should be noted that the goal of the Unit is not to discontinue necessary services to the community but to recommend action against those groups or programs which have been found to have acted improperly or illegally in delivery of said services. Early-warning systems will be instituted to detect fraud and mismanagement at the earliest instance and to respond legally and administratively to correct abuse.

The Unit will establish a closer line of communication with regional federal offices regarding program impropriety. Federal management divisions, audit division, and federal Inspectors General will be apprised of Unit findings. Coordination of efforts between City and Federal fraud prevention and detection departments will enhance the enforceability of local and federal rules which govern said programs.

In closing, it is our belief that creation of a specialized unit in this area is beneficial. It permits better understanding of the numerous programs and their functions. It also enables a closer contact and coordination of various departments instrumental in program funding and monitoring. Given the nature of program frauds and their complexities, it is essential to have a working knowledge of the programs and how fraud occur. With this basis, corruption detection and prevention can be more effective in combating problems which can and do arise in publicly funded programs.

We see the need for expansion of efforts by all areas of government to ensure that fraud in governmentfunded programs be eliminated. The purpose of the Unit continues to be to discern areas

in administration of City and federal programs where fraud vulnerability exist. The integrity of funds must be ensured so that intended benefits of social programs inure to needy and qualified persons. Since millions of dollars of government funds are involved, the federal government and New York City should take all necessary steps to guarantee the proper use of these funds.

TUESDAY, SEPTEMBER 23, 1980

Held at New York University Graduate School of Business Administration

9:15 A.M. Introduction of James Hildebrand, Chief Investigator of the Department of Investigation

By: Joy Dawson

Our first speaker this morning is our Chief Investigator James Hildebrand. Jim joined the New York City Police Department in 1953 and has spent more than twenty of these years in various detective bureau assignments where he attained the rank of captain. He was appointed Chief Investigator of the D.O.I. in 1975. Jim earned his MPA degree in police administration from City College and presently is an adjunct professor in the criminal justice program at Jersey City State College.

INTERVIEWING AND INTERROGATION SKILLS
AND THE ANTI-CORRUPTION PROCESS

Thank you Joy.

Several years ago one of our highly respected "think-tanks" derived the role of the criminal investigator by reporting that all an investigator does is talk to people. They implied that the act of talking to people, that of obtaining information, was not an important law enforcement function. Unfortunately, findings such as this are indicative of society's limited understanding of the investigative process and of its significance to an effective criminal justice system within a democratic frame work.

Perhaps, at this point, it would be helpful if I briefly define the term criminal investigation. I see it as a lawful search for people and things useful in reconstructing the circumstances of an illegal act of omission, and the mental state accompanying it. Some people believe successful investigations result from intuition or some flash of inspiration, a sort of detective mystique. Others, exposed to the "old school" believe investigations are routine plodding legwork requiring little or no imagination and no inspiration. Today, because of their exposure to TV shows like "Dr. Quincy", many people believe that crimes can only be solved by microscopic examination and laboratory analysis. The truth probably is that it's a little of each. Today new skills and new perspectives bypass yesterday's over reliance on informants and custodial interrogation. The search for physical evidence and the search for witnesses has become more important. For the most part we accomplish this through the interview process. Consequently, investigators spend more than half of their time talking to people.

A recently completed study of the criminal investigation process found that information from the victim and witnesses is the critical factor in solving most serious crimes. Another very interesting finding is that the number of witnesses is the single most important factor contributing to the conviction of the accused. The greater the number of non-law enforcement witnesses the greater the likelihood of conviction. Unfortunately today there is an increased reluctance on the part of witnesses to cooperate with investigators. Typically, if a shooting occurs in a neighborhood tavern, all the male patrons may try to tell the investigator that they didn't see anything because they were in the men's room at the time. Can you imagine thirty men in a four by seven room?

People, and the information they supply, accomplish investigative tasks. The investigator can not function without information and information can not be obtained without the help of people. Therefore, the investigator's first objective is to find enough people who will give their impressions of the circumstances of the case so that the investigator can feel that he has witnessed the crime himself. I think that it is important to remind you that there is no such thing as a perfect witness.

A single witness may be quite accurate, but two or more mutually independent witnesses decrease the possibility of human error. Remember, the collection of all information is the investigative essence of good police work.

This morning I intend to delve into the mysterious art of interviewing/interrogating. I use the term art because getting useful information from people is an art and a skill which must be cultivated and practiced; not all people who possess information are willing to share it. The objective of the interview is to gather information in a manner which will enable you to perceive the occurrence with the same degree of clarity and the same chronology as the witness perceived the event.

Although this may sound overly simplistic, prior to beginning the interview identify yourself to the person you wish to interview. Business cards are an excellent means of accomplishing this. If you are asked to show your badge or ID card or what ever credentials your agency issued to you, do so readily. Now that you have established your identity get the other party's pedigree and begin this interview. Notice I said interview, not interrogation. If a person can be successfully interviewed, why interrogate him? Actually, if you reflect on your past experiences I'm sure that you will agree that you spend much more of your time interviewing people than interrogating them.

The questions you pose should be brief. They should be simple and clearly stated so as to ensure that the witness understands the questions. Above all, let the witness talk. Give him an opportunity to give a complete account without interruptions. After he tells his story go over it with him and have him simplify any points that you think merit explanation. Questions should not be directed to whether or not he saw the crime committed. Rather does he have any information about something unusual that may have a bearing on the crime or its circumstances. Asking for any information is a valuable technique in developing reluctant witnesses.

The witness and his information must be evaluated in light of their potential value in the court room at a later time; therefore, you must evaluate the witness's competence and credibility. To achieve this you must test the witness to determine if he was present at the event and conscious of its occurrence; was he attentive or perhaps distracted by some other event? The interview should bring out what happened in their presence or within the range of their five senses. We are looking for evidence that directly proves a fact without inference or presumption.

In our daily activities perfect recall is basically unnecessary and is rarely, if ever displayed. Human perception and memory are selective rather than an exact xerox copying process. Thus the validity of the information obtained during an interview is influenced by the witness's ability to perceive correctly what happened in his presence, to recollect that information, and to communicate it correctly to the investigator. Consequently, a mistake can be made because of the lapse of time that has occurred or the witness having no reason for attaching importance to the event when it happened. Because of this as a rule, witnesses should be interviewed early in the case when they are

usually more willing to talk, to tell the truth, and when recall is usually better.

The personal characteristics relating to perception and recall are basically sex, age, skills, and interests. The higher the IQ the greater the likelihood of a good memory. This capacity for remembering increases gradually to mental maturity in the late teens and remains stable until degeneration with old age.

Most authors advise that if while interviewing a person any doubt arises as to whether you should give Miranda warnings, you should always give them. I think that's a lot of bunk. Miranda deals with custodial interrogations; interviews are not custodial. True, they may develop into custodial situations; when that happens then give the Miranda rights. Interestingly, there is a forgotten side to Miranda: The court also held that "it is an act of responsible citizenship for individuals to give whatever information they may have to aid law enforcement".

While the time and place of the interview should usually be convenient for the person about to be interviewed, in anti-corruption cases such as the ones investigated by D.O.I. it is frequently advisable to conduct the interview at a time and place that will not compromise the investigation. Our emphasis is on obtaining cooperation so as to be able to uncover existing endemic problems. Therefore, many times, we find it advisable to arrange an impromptu meeting with the person to be interviewed. Typically this can be accomplished as he leaves his residence in the morning or later as he leaves his place of employment. Under these conditions we prefer to conduct the interview at our John Street office where our meeting with the witness can be shielded from prying eyes. Here our concern is to maintain the integrity of the overall investigation. This should always be a prime concern where the possibility of systemic corruption exists.

Under these circumstances the initial encounter with the person can be quite a traumatic experience for him. Our purpose here is to have him voluntarily accompany the investigator to the DOI; preferably at once, but if not, as soon as practicable. If friendly persuasion fails then a subpoena may be obtained.

Assuming he consents to accompany you to the interview site, I believe that it is imperative that you conduct yourself in a manner which could in no way be construed as influencing the voluntary nature of his consent. For example, when getting into and out of the squad car don't open or close the door for him, and don't physically assist him in any way. Above all, assure him that he is not under arrest and is free to leave whenever he chooses. Remember that many witnesses are reluctant to cooperate with the interviewer when they can identify viewpoints or attitudes with which they are not in sympathy. Intolerance and impatience are handicaps, while sincerity and compassion are important factors in gaining cooperation. Your objective is to accompany the witness to the interview location, don't antagonize him, don't turn him off.

Having arrived at the interview site the investigator

now has the psychological advantage of playing the game on his home court. He now should be able to prevent distracting influences that could affect the subject's ability to conceal desired information. Another point to be remembered is that when too many people are present, the individual being interviewed may become reluctant to divulge all he knows about the matter under investigation. Similarly, interrogating an individual in the presence of too many people has been held by the courts to constitute duress.

The investigator should remember that his role is to direct the flow of the interview and to do so in a nonsuggestive manner. Questions should always be phrased in a positive tone so that the response is given in positive form. And, at the risk of being redundant, in questioning witnesses avoid confusing, leading, and indefinite questions. Do not assume facts, and do not bully. If he rambles, you must control the interview so that complete and accurate information is obtained. You should also never lose sight of the fact that in corruption related interviews the investigator has a second and equally important role, that of a recruiting officer. While he is gathering data he should also be convincing the person being interviewed to become an active participant in the development of the case. Whether it be by engaging the target in conversation or by notifying the investigator of future events as he learns of them. Over the years, we have become painfully aware of the pressing need to interest employees in supporting our efforts to curb white collar crime and corruption in particular. Their contributions frequently spell the difference between success and failure.

At the conclusion of the interview, a brief summary of the investigator just prior to the departure of the subject will disclose any mistakes or inconsistencies, both in the subjects' account of the incident and in the investigators' understanding of the information furnished. At this point the witness should be instructed to make a note of the time and date of the interview; and in case he may have forgotten your name, tell him again. Under appropriate circumstances give him your business card. Now, if he needs assistance to get to his next destination, see that he gets it.

Up to this point I have talked generally about interviewing the non target in the case under investigation. I have explained that an interview is the questioning of a person who is believed to possess knowledge that is of official interest to the investigator. Now suppose we look at how we approach our target through interrogation, which can be defined as the questioning of a person suspected of having committed an offense or of a person who is reluctant to make a full disclosure of information in his possession which is pertinent to the investigation.

Actually, any act of questioning can be considered interrogation. However, the interrogation is generally an offensive/defensive situation in which the investigator probes, presses and pushes his investigation to its climax with a confession. The suspect, guilty or innocent explains, lies or stands mute. A person should be interrogated only if he definitely

and with good reason is believed to be guilty of a crime, to be an accomplice to a crime, or to be withholding information directly pertaining to a crime. To repeat myself again, a person who can be successfully interviewed is not interrogated.

If it were some form of street type crime that was under investigation and the interrogator obtained a confession from the subject that phase of the investigation would then be complete. In corruption related cases however, the confession is merely one part of the interrogator's job. What remains for him to do is often much more difficult and much more frustrating; he must attempt to "turn" the subject so that he will cooperate with us in our efforts to expose others involved in organized corruption within the agency, its vendors and others doing business with that agency.

When you suspect that systemic problems exist, the attempt to "turn" the subject is the key factor in the development of any comprehensive case. In order to have more than a mere fleeting impact on the problem you must have someone on the inside; someone who is accepted by others involved in the scheme. To conduct a successful turn session you must believe in yourself. Your proper mental preparation for the coming interrogation is as important as having all of the available facts. Most sales schools teach that the first thirty seconds make the impression that make the sale. Since we are trying to sell ourselves in the interrogation room it is important that we consider what type of impression we make.

To turn a subject you must become impersonally involved in the interrogation. It must be an absolutely controlled involvement, but you must make the involvement appear sincere and heartfelt. This will mean a good deal of acting on your part. Being a little extroverted is in no way harmful in becoming a good interrogator. You should also learn to be impartial. And, above all never back yourself into a corner from which you cannot extricate yourself without the loss of some of your credibility. An integral part of a person's personality is his integrity; you want to radiate the fact that you are a sincere, upright individual. Also, you must never allow yourself to be bored. If the subject believes that you are bored with the whole conversation, he will not be inclined to cooperate with you. Actually what you are trying to do is to project an idea; that the subject join your team so that he can help to change the system.

The best way to begin any interrogation is to prepare yourself before you ever meet the subject with whom you planning to talk. Never take anything for granted, check yourself if possible. You can not know too much about the case before you walk into the interrogation room. You can know too little, and when you fall short, the subject knows it and you cannot do your job thoroughly.

The subject's occupation will often indicate his aims and ideals. By knowing some of his background, it is more like talking to a friend than to someone whom you have never met. What better conversation starter could be had than if you know something about the subject's neighborhood or previous home town. Immediately, you and he establish a common ground that could produce very effective results later on in the interrogation. The subjects family, parents, siblings, in-laws, and friends should always be considered when talking to the subject.

Be mindful of the purpose of the interrogation. In addition to seeking a confession, you also want to explore the M.O. and any other pertinent information he may possess, and you are trying to turn him. Usually the subject will become more talkative once you have told him the reason you are talking to him. He will want to explain everything that he did if he is giving you an alibi; if it is an out-and-out lie, most people will talk and talk just to make sure you believe them. The subject should be allowed to talk as long as he wants to discuss the case at hand. If he does admit to something other than the matter under investigation, take account of it, but pursue your immediate goal. Often a person will admit to something of a lesser nature to get you off the track of what you are after. While every interrogation will differ somewhat and you have to fit yourself to the situation, an extremely important factor in all interrogations is that you must keep the conversation flowing smoothly, and without jerky breaks or interruptions.

Statement taking is the conclusion of our interrogation effort. Once an admission has been orally made, you should continue the effort until the subject has reduced his admission to written words and has signed it before acceptable and unbiased witnesses. The statement binds all the details into one short understandable synopsis written in the words of the subject. The ending should include a sentence which indicates that the subject has read the statement, that he understands it and that he attests to its accuracy.

In a custodial situation: introduce yourself; give Miranda warnings; secure a waiver; or don't bother questioning the subject. This today, is a constitutional mandate. However, it does not mean that you can not interrogate a suspect. Miranda deals only with custodial situations; therefore, structure the interrogation setting so that you avoid the question of custody. Invite your subject, whether it be by telephone or in person, to meet with you. Naturally it would be preferable to conduct the interrogation at your office, but if neutral territory is the best you can do then you must make the most of the situation. Here the key is to make it clearly evident that the subject voluntarily responded. He must be advised that he is not under arrest, although it is possible he might be arrested at some future time; that he is free to leave whenever he wishes.

As I speak, the voluntary situation, described will undoubtedly be examined with jaundiced eye under a microscope by the court. Therefore, you need more than mere words to prove

that it was not a custodial situation. Take a break during the session, let the suspect go out for coffee. Wrap it up for the day and ask him to meet with you tomorrow. Arrange for his transportation home. Whatever action you take, it should be something that will convince the court that when you interrogated him, he was not under any form of custodial restraint.

In the short space of time allotted to me I have tried the near impossible--that's to discuss the nuances of the interview/interrogation process, while pointing out the use of the turn session within a constitutional context. Of necessity I skipped the question of immunity and just briefly mentioned the taking of statements. I think the key for us as internal investigators is to direct our main thrust to the mastery of those interrogative skills which will improve our "turn session" capabilities. Using a turned operative provides us with one of the most powerful weapons available to combat corruption--our man on the inside.

Afternoon Session

Held at New York University Graduate School of Business Administration

Comparative Corruption Investigative Organizations and Methods

Summary of Discussion

The purpose of this segment of the training session was to acquaint the participants with the organization and structure of the various agencies represented. Additionally, the general operational approaches to corruption problems within their respective jurisdictions were discussed.

Various participants lectured to the group on their organizations while one (1) submitted a test to be made a permanent part of the session proceedings.

From the discussions, it became apparent that five types of government anti-corruption investigative formats appear to exist. The systems are as follows:

1. Overall Anti-Corruption Organization

Under this system, the responsibility for the detection and management of corruption comes under a law enforcement organization specifically charged to deal with corruption within its jurisdiction.

The New York City Department of Investigation (D.O.I.) derives its statutory authority from Chapter 34 of Administrative Code and the Mayor's Executive No. 16. The Department has the general responsibility for the investigation and elimination of corrupt and other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence by City officer and employees as well as persons regulated by, doing business with or receiving funds directly or indirectly, with respect to their dealings with the City. Additionally no agency may proceed with any

corruption investigation without the approval of the Commissioner.

The Independent Commission Against Corruption (ICAC) in the British Crown Colony of Hong Kong derives its existence and charter from the Independent Commission Against Corruption Ordinance of 1974. The Commissioner, acting on behalf of the Governor, investigates any alleged or suspected offences under the aforementioned ordinance, the Prevention of Bribery Ordinance or the corrupt and Illegal Practices Ordinance. All of these relate to corrupt activities on the part of government officials or companies that are so-called public bodies.

Other overview organizations included the Corrupt Practices Investigation Bureau from the Republic of Singapore and the National Bureau of Investigation from Malaysia.

2. Law Enforcement Agencies with Fraud or White Collar Crime Units.

Many jurisdictions treat overall municipal corruption as part of the investigative function of white collar crime units. Criminal investigation divisions of the several States Attorney General's Office would fall into this category. Representatives of the Criminal Investigation Divisions of the Chief State's Attorney Office of Connecticut and Attorney General's Office of the State of Maine related their experiences in this area. The Ottawa Police Service of Ontario, Canada was represented in this category also as well as Vienna Police Directorate of Austria. Hofrat Dr. Heinrich Tintner of the Department for the Investigation of Economic Crimes, Vienna Police Directorate, pointed out the close relationship between white collar crime and corrupt activities and all the accompanying problems of business record examinations. He submitted a text titled "Investigation of Economic Crime" which follows at the end of this chapter. Many local prosecutors in the New York City area maintain Corruption Units. The District Attorney's Office of Nassau County was represented in this category. The Arab Republic of Egypt maintains the Department of Public Property Prosecutions in the Ministry of Justice headed by a Deputy Attorney General.

3. Police Agencies that Maintain Overall Anti-Corruption Units.

Some police agencies maintain investigative units that conduct inquiries into allegations of municipal corruption within their respective jurisdiction. The Internal Affairs Division of the Stamford, Connecticut Police Department has such a system. The political and operational problems of this organization are dealt with in a subsequent chapter. The general consensus reached on this subject was the fact that the political process plays a decisive role in whether or not such a method will be successful.

4. Local Agency Anti-Corruption Units.

This type of system seems to be the most common especially among the various police agencies in the United States. Generally called internal investigating units or inspector general's offices, these local anti-corruption efforts are narrowly limited to employees of their own department. The success or failure of this approach is to a great extent dependent upon the political environment created by the jurisdiction in which they operate. Without overall direction and strong executive leadership on the part of agency

heads their success will be hampered in effectively eliminating or controlling corruption.

5. Temporary Organizations

These are investigative or law enforcement organizations created because of a current surfacing of some corruption or government fraud problem. Their mandate is usually limited in scope to a specific problem area and the duration of their existence is also restricted. They are generally created after a hue and cry in the media and are almost always reactive in nature. The use of the concept of the Special Prosecutor is a prime example.

Various discussions were conducted relative to the most effective investigative tactics employed by the organizations. Tactics were clearly governed by two(2) critical factors:

- a) social environment
- b) laws and statutes restricting the use of certain procedures.

As a result some agencies have developed a strong capability in certain functions. The ICAC has built one of the finest surveillance systems in the world while D.O.I. has been extremely effective in covert operations. By these discussions, the relative investigative strengths both in the area of tactics and organization structure that most effectively deploy investigative resources were highlighted. Finally, we believe that the participants gained tremendous operational insights that will be translatable into innovations for their agencies. The comparative sessions were concluded on the positive note that these types of interchanges were both desirable and necessary for the future. Many of the representatives agreed to establish official liaisons especially on the operational level. This factor alone made the exercise productive.

Investigation of Economic Crime

Hofrat Dr. Heinrich Tintner

Austria possesses a long tradition of fighting against economic crimes, the investigation of which is one of the tasks of the Criminal Investigation Department. After World War I the "Official Gazette of the Vienna Chief-of-Police" noted, that, with effect of August 15, 1922, the Office of Investigation of Wartime Usury had been transformed into the Department for the Investigation of Economic Crimes. Postwar conditions gave rise to profiteering and black market activities. The jurisdiction of this Department was, however, also extended to other economic misdemeanors. The head of the department was an official with legal training from the very beginning.

The 2nd. World War and its attendant conditions brought about changes in the organization: and additional wartime branch investigated price controls and the taxation of excess profits.

The Department for the Investigation of Economic Crimes was set up again immediately after the end of World War II within the frame work of the Vienna Police Directorate. Due to the importance accorded to this department and to the temporary subdivision of Vienna into four zones of occupation, there was also departmental subdivision into areas and specialized subjects: The investigation of Economic Crimes, a bureau to combat smuggling and black-marketeering and another responsible for price control. Due to this extraordinary situation the staff of the department numbered up to 330. After coming into force of the State Treaty, signed on May 15, 1955, such subdivisions into bureaus ceased and an integrated department was again formed, allowing the personnel to be reduced to approximately 70 officers and employees.

The Department of the Investigation of Economic Crimes is part of Section II, which also includes the Central Bureau of Investigation, the Bureau for Criminal Identification & Technical Services, the Office of Criminal Records, the Police Bureau with the Office of the Vienna State Attorney and the Bureau for Juvenile Delinquency.

The investigation of economic crimes differ from all other types of criminal police investigations. While with other offenses the external facts of the case are usually clearly apparent and it is thereby obvious to the culprit that he is acting against the law, the special difficulty attendant to the investigation of an economic crime is due to the circumstances that the facts constituting contravention are usually submerged under a layer of circumstantial facts and that initially the mere facts do not point to the intentions, ideas and abilities of the perpetrator. As a rule the various actions of the principal will be indistinguishable from normal, respectable business procedure (debt payment, application for credits to obtain goods, bill jobbing, presentation of a status in requesting a loan, withdrawal of monies for maintenance, clearance sales, etc.) The special circumstances making these actions illegal and the intent underlying, enabling the detection of negligence by the culprit, are general characteristics of the culprits financial status, as it existed at the time of perpetration or as it represented itself in the mind of the perpetrator. The subject's financial situation and its development is a puzzle, consisting of a multitude of individual circumstances. Successful realisation of the intent, where achieved, is not obtained through one separate action or the conclusion of a single transaction, but by a multitude of operations, in which the responsibility for the individual operation will be most doubtful and it will be easily discernible how far such an operation was undertaken intentionally or negligently. The individual operations usually demonstrate but little of the effect of the perpetrators will because they follow the predetermined lines of commercial practice of tape usage. i.e. the perpetrator will order a large shipment of goods, shipment and transfer of the goods will probably take place within the framework of the organization of participating enterprises without any further action by the owners; after some time an invoice will be sent and the term of payment will be three months, although this may not have been mentioned at all when the order was placed. The orderer was able to count on it, because he knew of the usage of this particular partner, the first demand for payment will be made six weeks after the sum was due, at that

time the perpetrator will become active again, he might give the urging creditor, e.g. a doubtful bill, but at the same time, referring to such "payment by bill", get the creditor to let him have a further consignment, etc.

With such circumstances it becomes all the more difficult to prove the existence of criminal intent, hidden as it is among such a multitude of individual operations, particularly to determine and distinguish. Although "external" facts will be proven from objective data (bookkeeping, correspondence, claims, executions, etc.), the perpetrator will argue that his negligent behavior was merely commercial practice, trade usage or even necessary, while he claims that ideal behaviour would be negligent at best, arguments, which the investigator will have difficulty to refute or see through. The delinquent is often able to make an intentional tolerance of damage to the business partner look like mere negligence on his part, because he was overly optimistic with regard to developments. An investigator will need to possess at least a good knowledge of economics, management and bookkeeping operations, so as to be on par with the delinquent, who will possess superior knowledge in his chosen field. The investigator will need to be conversant not only with criminal law, but also all regulations concerning civil--and commercial law. To have the least chance to obtain proof-positive against the delinquent, it will be necessary to determine all the facts in as great detail as possible. In a majority of cases there will be a likelihood of bankruptcy, but only the closest "screening" will be likely to obtain proof of fraud or embezzlement. Culpable behaviour will often continue for years and only become evident in overview.

As a rule the authorities will learn about the situation through a charge filed by the person harmed, stating blandly, that the culprit had, pretending to be solvent and willing to pay, taken credit for goods and financing, but had not paid at maturity. A charge filed in court had not hitherto brought any result, which made it necessary to charge him with fraud.

Vienna being the place when most enterprises and business undertakings have their seat it is also the location of most economic crimes. Approximately 15% of the offenses chargeable in court concern bankruptcies. To these cases most are due to assigned to "fraudulent bankruptcy" (§ 159 STGB=Criminal Law Code).

Developments during the last few years demonstrate a great change in office technology to electronic data processing. While large enterprises had been obtaining their management data and basic figures through computers, smaller enterprises had not been able to afford this equipment hitherto because of the expense.

Now EDP has filled this gap by means of the office computer, a unit within the range of medium data technology. This is a group of data products including table top computers, as well as booking--and automatic invoicing units and office computers, as well as magnetic accounting installations. Problems will arise through this spread of EDP for police investigations.

The purpose of the use of these non-conventional data

carriers lies in the:

- a) quick collection of data and their processing and
- b) spacesaving data storage

In principle this would mean that enterprises, who use EDP will transfer the data contained in vouchers, invoices, letters received and copies of those dispatched into electronic storage, making them invisible to the human eye, unless accessed via a display. This will make the investigation of bookkeeping procedures much more difficult. Legislation has been received, e.g. the Commercial Code and the Federal Revenue Regulations, to permit the use of electronic data processing for orderly bookkeeping and the storage of commercial correspondence, on condition that access and retrieval of information is guaranteed in a complete, orderly and full-content manner, where required also in a form true to the original. Persons or entities using such storage and processing will be obliged to supply the prescribed number of clearly legible, full size, permanent copies at their own expense.

Thus the use of EDP-installations of whatever kind, as well as of microfiches, as an aid to space economy has been legalized though with the limitations referred to above.

The traditional investigation of the facts from bookkeeping, e.g. by the comparison of a voucher with the entry it concerns, will become more difficult, because there is no longer any visual possibility of comparison. An examination of the properness, completeness and correctness of the data stored is only possible by means of special test programs.

The detection of an individual looking for possible criminal relevance used to be possible for an experienced investigator controlling the relevant vouchers and accounts. Due to the lack of visible records, that is no longer so. In view of the ensuing costs and loss of time, it will be difficult to require a large firm to have its bookkeeping records for several years printed out.

The continuing changeover of bookkeeping departments to EDP will lead economic criminals to try their hand with computer criminality. In this context problems of data protection will figure every more prominently.

As before the human individual will remain the weakest link in the chain of protective measures, whose erratic behavior we need to investigate. Up to date only a few computer crimes have been investigated and solved.

The Pricing Law of May 19, 1976, BGBl 260 which replaced the Law Against Profiterring of 1959 is the basis, on which the Federal Police Directorate Vienna is entrusted with the control of prices in Vienna as a federal province. The most important tasks incumbent under this concern the control of price labelling and the investigation of profiteering. More than 13,500 shops and enterprises are established within the City limits alone for the branches of food retailing, butchery, bakery and food retailing.

Apart from them there are a multitude of trade enterprises, gas, water, and electric fitters, locksmiths, car mechanics, plumbers and the like and a great number of service enterprises, such as hairdressers, dry cleaners, etc. There are also many thousands of retail traders of all kinds.

Work with the Pricing Law does not merely consist in the filing of sentences and decisions. The Execution of preliminary investigations under the Pricing Law, that have to be executed under orders by the Federal Ministry For Trade, Commerce and Industry, as well as by denunciation through private individuals, demand specific know how about the business concerned, knowledge about enterprise structures, the habitual economic performances and the relevant legal directives.

Intensive preliminary talks and preparations allow an efficient and timesaving use of the investigator's abilities. They need to be schooled continuously to keep up with the development and structural transformation of the economy. Special Attention is given to the choice of the kind of shop, enterprise and company to be included in the investigations, so as to account for their role in popular supply.

Every month the department organizes a special large-scale investigation of proper price making in one trading branch, as well as of price developments. Special price control observation is also undertaken on holiday occasions such as Easter, Christmas, Mothers Day and the like.

Price scales often show exorbitant differences between highest and lowest prices, for some articles far more than 100 percent. Talks with the shop owners aim to reduce such differences and are often successful. Price reductions can have a great deal of effect on the pricing developments with competition firms.

It is necessary to mention that in criminal administrative procedure the accused are usually defended by the best lawyers and are supported factually and financially by their syndicate. The most important factual or juridical questions lead to procedures all the way up to the supreme courts, so that their validity is guaranteed throughout the whole federal territory. At present the Department for the Investigation of Economic Crimes employs 9 lawyers, 1 Doctor of Commerce, 2 secondary school graduates, 2 chiefs and 35 operative criminal investigators, as well as clerks and officer personnel.

Inasfar as they did not possess relevant expert knowledge, officials assigned to the Department for the Investigation of Economic Crimes, have to attend commercial training courses in their spare time, so as to obtain the necessary knowhow. Investigation techniques have to be learnt from older colleagues, whose many years of experience have proven invaluable. Every investigator has to participate in further education so as to keep up with the most modern and novel methods of the perpetrators of economic crimes. Succeeding generations of data processing machines and software have to be studied, so as to keep abreast with further opportunities for computer criminality. The organic

training of new staff members has permitted the formation of a reserve of commercially trained personnel, so that most preliminary investigations can be carried out by our investigators without the aid of any sworn economic experts.

The competency of the Federal Police Directorate for Vienna and also for the Department for the Investigation of Economic Crimes only extends to the territory of the Federal Province of Vienna, making it necessary to find special solutions to extend official investigations to other provinces. Thus the department has been entrusted with the training of more than 100 gendarmerie and criminal investigators from other police administrations, so as to allow investigators from outside Vienna to conduct their investigations with the same expertise. Guidelines for these purposes were worked out and departmental experts participated in the publication of a book entitled "ECONOMIC CRIMES AND THEIR INVESTIGATION BY THE CRIMINAL POLICE" to assist investigators in the interpretation of relevant legislation.

In cases of a very complicated nature, which might need the assistance of the department in Vienna, it is possible to allocate experts from the central department for investigation purposes. The training scheme previously mentioned has created excellent personal relations throughout the country.

The activities of the Department for the Investigation of Economic Crimes has been given full recognition by the courts and state attorneys making for complete harmony with these authorities.

Wednesday September 24, 1980
Held at Landmark Square, Stamford, Connecticut

This day in our CORRUPTION INVESTIGATION TECHNIQUES TRAINING SESSION was hosted by the Internal Affairs Division of the Stamford Police Department, Chief Victor I. Cizanckas. Chief Cizanckas is a graduate of Notre Dame College, Belmont, California and former Chief of the Menlo Park Police Department in California. He is a nationally known lecturer on Maintaining Municipal Integrity with the National Criminal Justice Executive Training Program sponsored by the Law Enforcement Assistance Administration of the Department of Justice. Chief Cizanckas was selected to head the Stamford Police Department after a nation wide search by the Mayor. His anti-corruption unit, the Internal Affairs Division is one of the more successful programs in this part of the country and has been widely acclaimed both in the media and among law enforcement circles. Victor Cizanckas clearly is one of the leaders in the United States in the development of anti-corruption programs in municipal government.

9:30 a.m. - INTRODUCTION OF MAYOR LOUIS A. CLAPES
by Chief Victor I. Cizanckas.

Ladies and Gentlemen it is my distinguished pleasure to introduce Mayor Clapes to you to start off our training session here in the City of Stamford. Mayor Clapes through his political courage and dedicated professionalism has been a guiding light in leading the fight for integrity in government. The achievements in Stamford have been made possible by his foresight and insistence that government could and would change for better. He has restored faith and confidence among the citizenry in its public officials and accordingly has raised the quality of life in the city.

Ladies and gentlemen, Mayor Clapes.

ESTABLISHING THE CLIMATE FOR REFORM

Stamford is the city where I was born and raised. I went through the Stamford School System and later served on the Board of Education and as town clerk before I was elected Mayor in November of 1975. I feel that I know our city well. I know it's people and its neighborhoods because of my lifelong residence here and I know the good that is happening as well as the bad. It is because I know that most of our people are community-minded and good people, that I

deplore the relatively few who have tried to use the political system to enhance their influence and line their pockets. Now, I imagine that people like this operate in most other cities with varying degrees of success. Usually it is because either nobody cares enough to try to change things or people feel that it is useless to try to buck the system.

Stamford is considered a swing town in terms of political influence despite the sizable majority enjoyed by one party. Stamford has been, until fairly recently and even now I suspect, an overgrown small town where the voters are close to the candidates and elect them regardless of party affiliation. Because no one party enjoyed complete dominance and never knew when it would be on the outs, there developed years ago, a so-called double machine. This double machine effectively guaranteed that even if a party was out of power, the "in" party leaders would choose the "out" party's choice for certain appointments. This cozy arrangement kept each party in a position of influence and discouraged outsiders no matter how qualified from seeking political appointment.

Political corruption is the kind of thing that although people know its there, it is difficult to prove or get witnesses to talk about. It was thought that in order to get zoning approval, you had to know the "right people". In order to get a city job, or a promotion, you had to know the right people. Anything from fixing a parking ticket to getting a stone wall built at your home by the city could be done just by knowing the right people. It was a great discouragement and served to create a justified cynicism and lack of confidence in government and good people were even further discouraged from fighting the system because it was so ingrained and pervasive.

The first real breakthrough took place in 1974 with an investigation into an exam for a city park superintendent by the legislative body of the city. Many irregularities were uncovered and helping to spur along the investigation was a zealous investigative reporter from the local newspaper. Tony Dolan has since won a pulitizer prize for his work, that, in a sense, set the stage for reform.

It was shortly after this time that I decided to run for Mayor. I had a long smoldering issue and I knew the time was right to run with this one. I was fortunate in that my public support was and still is from the general public rather than the party. I was in an excellent position of making a meaningful change in the city I loved and was eager to get on with the job.

We started by reforming the entire civil service system to make it into a true merit system of what you know rather than "who" you know. To do this, we set up a blue Ribbon Task Force of top

corporate personnel experts and followed most of their recommendations. My cabinet as well as other appointments were made strictly on the basis of professionalism and competence and not for political reasons. The national corporations helped me by loaning a variety of experts. We pushed for a way to change the system of construction "change orders", where low bids were awarded to a contractor who later would submit long lists of change orders which would drastically increase his profits. Now we have close scrutiny and monitoring of change orders and they must undergo a strict review process.

Other opportunities for ripoffs were eliminated, such as closer monitoring of city gasoline usage, tighter controls over individuals borrowing city equipment or using city paid hours to perform personal business. We tried to create a climate of ethical behavior by instituting these reforms and by setting the example at the top. At one point, I turned back a bid for paper recycling because it was my own cousin who won the bid. You can imagine how popular this made me with my own family. I received anonymous and threatening phone calls at my home and hate mail in the office, and still do, I might add.

Early in 1976, I was informed by the then police chief that he was planning to retire after 22 years in office. Since I knew how vital it was to have a truly professional chief who had no old allegiances and could ruthlessly weed out the few in the department who did. I embarked on a nationwide search for a new police chief. This started with my contacting Patrick Murphy, who I had met on several occasions prior to this time. With his help and advice and my insistence that we look for the best new police chief in the country, we worked out a system that was widely publicized for its originality and success. It involved setting up screening panels composed of nationally-recognized law enforcement experts to sift through the more than 100 applications we received. To make a long story short, the nation-wide search resulted in the choice of Chief Cizanckas. There was great support in parts of the community for promoting from within the department. I was determined, however, to consider everyone regardless of where they were from and selected the most qualified person. To gain acceptance for bringing in an out of town chief required an all out effort of going directly to the people in their neighborhoods, community centers and places of worship. The people, after having met my choice for Chief, pressured their elected representatives to approve my choice. It was, to adapt a phrase from Winston Churchill, "one of our finest hours."

The Chief's mandate was to find corruption and root it out. I gave him carte blanche to do this. He has accomplished a great deal since he first started in May of 1977. We have a basically good and honest police force that has had to adapt to

many changes, and it hasn't been easy. Drastic changes never are easy, especially after twenty-two years of doing things one way.

I believe we have created the momentum for reform and an awareness in the public of the continued need for high standards of conduct for public officials. I believe our own police department may be too close to understand just how far they themselves have grown and developed professionally under Chief Cizanckas. They truly have become Stamford's finest in the process.

As I go out into the community, people give me the message over and over again. They want an honest and open government. They have had enough of Watergates and Abscams. Their previous "turn the other cheek" attitude or "you can't fight city hall" attitude is gone. They have had enough and they are finally asserting their rights as citizens and taxpayers. They are willing to come forward and be heard and know they will be listened to.

I am not foolish enough to believe that we can now pat ourselves on the back for a job well done. It is a job which must be ongoing and be a top priority in whoever holds the office of Mayor. For the two-party system is patient and can afford to wait for the chance to, once again, hold sway. The political temptations for any future mayoral candidate are great and must be overcome. This is a tall order.

In concluding, I feel that my five years as Mayor has established this climate for reform, and I hope that the momentum in this direction will be strong enough, with the help of all the people out there, to continue.

Thank you for giving me the opportunity to talk to you about Stamford.

10:00 a.m. - CHIEF VICTOR I. CIZANCKAS

INVESTIGATION OF MUNICIPAL CORRUPTION
(Perspectives on Implementation, Risks and Consequences)

THE GOALS OF CORRUPTION INVESTIGATION:

At the outset, it must be understood that any corruption investigation designed simply to arrest and punish corrupt employees will, in the long run, be unsuccessful. Pervasive corruption always involves more than the municipal employee. Most often, there is matrix of politicians, organized crime figures, and city workers. Additionally, indepth investigations often involve contractors, builders, tradesmen, and powerbrokers of all sorts.

The ultimate goal of any program addressing the problem of corruption must be to eliminate the opportunities for corruption, to increase the risk, and to remove the incentive that encourages corrupt practices.

The design of any program will, of course, depend upon the local situation. If a municipality or government agency is free from corruption, the installation of safe guards, coupled with aggressive monitoring, may be all that is necessary. If corruption is acute, it will be necessary to establish both short-range and long-range goals that address the problem, and at the same time ensure on-going success.

DANGER SIGNS OF ORGANIZED CRIME AND RACKETEERING:

Many books and articles that address the question of organized crime correctly point out the following danger signs:

1. Social acceptance of hoodlums in decent society.
2. A community's indifference to ineffective local government.
3. Notorious mobster personalities in open control of businesses.
4. Improper handling of public funds.
5. Interest at very high rates to poor risk borrowers.
6. Close association of mobsters and local authorities.
7. Arson, Bombings and terrorizing legitimate businesses.
8. Easily found gambling, narcotics and prostitution.

DETERMINING THE POSSIBILITY OF A SUCCESSFUL CORRUPTION INVESTIGATION

There is no simple method to determine success probability because each community has its own particular variables. However, there are positive and negative indicators that will help you in the decision-making process.

Positive Indicators

- * Aggressive investigative reporting by the Media.
- * Active citizen groups demanding reform or good government.
- * An active, well-organized Chamber of Commerce.
- * A professional, concerned City Manager or Mayor.
- * Media that is exposing corruption and demanding change.
- * A professional Police Executive.
- * An aggressive prosecutor at the State or Federal level.

Negative Indicators

- * The existence of a tolerated "vice strip".
- * An entrenched or one party political system.
- * A political or disinterested prosecutor.
- * A weak or political police administrator.
- * Non-professional department heads.
- * A community attitude that says "one hand washes the other."
- * Community feeling that corruption is inevitable "we are no more corrupt than any other city."
- * Controlled or disinterested media.

INFORMAL ASSESSMENT OF CORRUPTION IN A MUNICIPALITY

When there is a sense of the presence or existence of corruption in your community, there is an effective technique that can be used by trained interviewers to determine in a relatively short period of time the realities of the situation. This procedure will surely establish community attitudes or perception. To assist investigators in establishing long and short range goals, the following people in a community should be interviewed:

- * Taxi Drivers
- * Newspaper Reporters
- * Chamber of Commerce
- * Lawyers
- * Clergy
- * Bar owners and Bartenders
- * Law enforcement officers: Local, State, and Federal
- * Hotel help
- * Homeowners associations
- * Contractors

INTERVIEW TECHNIQUES

The following are tried and tested questions that illicit a variety of responses that these interviews can use for future extensive interrogations:

- * Can I fix a ticket?
- * Where can I place a bet?
- * Who is the best zoning attorney?
- * How strict is the housing code enforcement?
- * Can I get a girl for my room?
- * Who runs the gambling?
- * Is this a good place to live?
- * How extensive is the drug problem?
- * What are the politics of this city?
- * How do I get a liquor license?

- * Is it difficult to open a business?
- * Who do I see if I want to bid on a city contract?
- * How good is the Police Department?

When this process is completed you will know if you have a problem or if you are susceptible to corruption.

At the end of this process a plan of action can be developed to attack municipal corruption. It should be pointed out that investigations of this nature are lengthy, difficult, and, in many ways, dangerous. The questions that must be answered are: "Is it worth it?" "Is it possible?" And, "What are my personal risks?"

PERSONAL AND PROFESSIONAL CONSEQUENCES

If there is a determination that an effort to reform can be successful, there are real risks involved that must be understood at the outset, and of course, the more pervasive the corruption, the greater the risk. An attack on systematic, pervasive corruption is really an attempt to change a social system. It is also an attack on the participants' economic situation. The resistance to your efforts will be formidable and can manifest itself in the following ways:

- * Community pride is hurt and the administrator is held responsible.
- * Reputation is undermined by rumors and character assassination.
- * Government and private resources and assistance are withdrawn.
- * Family harassment.
- * Physical threat.
- * Physical harm.
- * Loss of position.
- * Law suits.
- * Systematic undermining of efforts.
- * Career growth can be affected.
- * Intellectual, psychological and physical health are strained.

- * Loss of pay raise.
- * Political harassment.

RESISTANCE TO CHANGE

I believe it is necessary to discuss what happens when social environment is changed in any way. I am addressing both

change in honest systems and change in corrupt systems. I would like to paraphrase from an article titled, "Implementing Innovations" by Mr. Ora Spaid. This article appears in the publication Maintaining Municipal Integrity, disseminated by the National Institute of Law Enforcement and Criminal Justice, LEAA, United States Department of Justice.

Mr. Spaid correctly points out that:

- * Change disturbs what is regarded as normal, what is customary, what is old..."The good old days"... "The old fashioned way"... are assumed to be normal while change is deemed abnormal.
- * Change is contrary to first-learned patterns. Our primary experiences carry throughout life. Patterns in organizations often continue in the absence of effective challenge largely because "That's the way we have always done it."
- * Change may be perceived as an admission of failure or the judgment of inadequacy.

These are some of the truisms that apply to a change process.

And, once again, it should be pointed out that an attack on an existing corrupt system is an attack on a social system. Resistance will be formidable.

Finally, in the same publication, Maintaining Municipal Integrity, it is clearly pointed out that investigation by itself will not succeed in changing a social system. There must be a management environment that ensures accountability and integrity of the municipal system. The necessary components include, of course investigation; however, audit of management, financial integrity, compliance systems and procedures, and monitoring, along with training and management control are also essential for a successful effort.

1:45 p.m. - City Hall, Stamford Connecticut

INTRODUCTION OF JAY SHAW by CHIEF VICTOR I. CIZANCKAS

Our next speaker is Mr. Jay Shaw, publisher the "Stamford Advocate" which won the Pulitzer Prize for Investigative Reporting on corruption in Stamford in 1976. In a free society, the media plays a very important role in leading the fight for integrity in government. The Stamford Advocate in recent years has maintained

a reputation for objective and independent reporting. For those of us who are charged with responsibility of enforcing the Anti-corruption efforts of government, this is a healthy sign. It is with great pleasure that I present Mr. Jay Shaw.

Role of Media in Exposing Corruption

Thank you Chief Cizanckas.

In talking to a group of investigators about "the Media and corruption" one thought occurs to me: That our role is probably as misunderstood as yours.

Everybody's an expert on police work and everybody has an opinion of what the police should do. After all, they've watched Adam-12 and the FBI. Maybe they've even been arrested.

Likewise, people see "All the President's Men" and watch "Lou Grant", and they're suddenly experts on the press. After all, they watch the news every night and they worked on their paper in high school.

Depending on your outlook, we're either supposed to be public relations people or crusaders; H.L. Mencken, the writer whose 100th birthday would have been celebrated this month, once said the function of journalism is "to comfort the afflicted and afflict the comfortable."

I guess we do a little of both. But those are byproducts of our real role.

I think the best description of our role, to give credit to a rival, is summed up in the motto of Scripps-Howard Newspapers: "Give light and the people will find their own way."

That's all. We don't tell readers what to think and we certainly can't tell them what to do. They're smart enough to decide that for themselves.

We simply try to give light - to provide the truth as accurately as we are able to determine it.

In a sense, we're surrogates for our readers. We attend the meetings, conduct the interviews, and watch the events they can't. We're an extension of their eyes and ears.

But in a vigorous free press, giving light means more than just being a conduit - reporting the prepared statements of

public officials and the random events that make up the news. More often than not, giving light means asking the dangerous questions "why" and "how."

Those questions can lead below the surface, where the real story often lies.

Occasionally, that story is about corruption.

It might be the boondoggle that was covered up to protect someone in City Hall; the zoning change that was approved for money or other considerations; the contract that was awarded in exchange for a kickback; or the politician who answers to a clubhouse boss before his constituents. It might even be the well-intentioned government program that becomes a double-cross for the people it was supposed to help, and a gravy train for the people who were supposed to run it.

Contrary to popular belief, they're not always stories that lead to firings, resignations, indictments and convictions.

Often these stories only come to light because of reporters, asking the questions why and how.

How does it happen?

A reporter or editor gets a tip, a hunch or a tantalizing scrap of information. He files it away in his memory, or pieces it together with other bits of information, or he starts digging, trying to uncover the story that some people want hidden.

In doing this, reporters have freedoms and limits that police investigators don't.

They do try to get the sort of hard information that would stand up in court. But they're not trying to prove someone is guilty or innocent beyond a reasonable doubt, to a jury of reasonable persons, with admissible evidence gathered by means which the constitution allows.

Their goal is the truth - not a conviction or an acquittal. Indeed, news stories sometimes raise more questions than they answer.

At the same time, reporters can't issue subpoenas, get search warrants or swear in witnesses. They have to rely on other means.

They might go on a "paper chase" - digging through dusty piles of documents that are on the public record, or they might knock on doors and talk to sources.

Almost anybody can be a source. It might be a guy with a grudge, or somebody who's trying to get ahead at someone else's expense. It might be a good citizen who's outraged at what he sees as injustice.

Many sources have good motives, but some don't. Some lie.

The most reliable sources are professional, non-political public servants. They're the career people, from the cop on the beat to high-ranking municipal administrators. Frequently, they can't "go public" without fear of retribution.

Reporters sift through the information they've accumulated, arranging it and rearranging it. They look for something they might have missed. They get both sides. They question motives - including their own.

They strive to follow Joseph Pulitzer's three unbreakable rules of reporting: Accuracy, accuracy and accuracy. They remember that their first obligation is to their readers and to the truth.

It is a weighty obligation, because newspaper stories can stain reputations, damage careers, and affect lives. But a newspaper must report without fear or favor. It can't have sacred cows any more than it can have an enemies list.

Everyone knows what an enemies list is; sacred cows come in many shapes and sizes.

For example: Most politicians are likable and articulate. That's how they get elected in the first place. But the reporter who gets too close to city hall can lose his objectivity and become an apologist for the people he's supposed to be keeping an eye on. Most businessmen are honest and hard-working. But the newspaper that becomes part of a power structure will have a hard time printing stories about products that endanger workers or consumers. Most cops are dedicated, compassionate and underpaid. But the reporter who gets too close to them can lose his ability to see - and fairly report - both sides of issues that involve public safety. He can become a prosecutor - or a cop with a pencil.

Reporting without fear or favor, and letting the chips fall where they may, can bring heavy pressure against a newspaper.

It might come in the form of legal harassment of reporters and editors. Tying them up in expensive court battles keeps them from doing their jobs. It has a chilling effect on other efforts to uncover difficult stories. It can discourage sources from coming forward and talking.

There is also financial pressure.

Out in Colorado, the Crested Butte Chronicle broke the story that led to the resignation of President Ford's Campaign manager, Bo Callaway, in 1976. Callaway allegedly tried to pressure the U.S. Forest Service into allowing expansion of his ski resort. What award did the newspaper win? Local businessmen imposed a boycott that cut its ad revenues from \$1,800 to \$300 weekly, and its pages from 24 to 8.

The Philadelphia Inquirer once did a series of articles on Federal Housing Administration Loans that showed how properties were being abandoned, residents were being bilked and fraudulent speculators were getting rich. The reaction? Brokers and mortgage bankers pulled advertising from the paper. Some of them later told reporters they were surprised that the Inquirer hadn't stopped the stories.

A good newspaper will always try to buck this kind of pressure tactic, but it's easier for a Philadelphia Inquirer than a Crested Butte Chronicle. Some newspapers might consider it a badge of honor, but no one welcomes it. Consequently, it's hard for a lot of Hometown papers to uncover corruption, and to be independent and crusading.

It's even harder because newspapers have a stake in their community. They're often part of - or cooperative with - the so-called establishment. Too often, they abandon hard reporting for boosterism.

As a result, a community usually gets the sort of newspaper it wants, because a newspaper does mirror its community.

This is why I don't know whether to laugh or cry when people claim that the press has too much power.

Power belongs to the people - if they choose to use it.

But if the people - or their representatives - choose not to use their power, the press is no more than the background chorus commenting on the action in a Greek tragedy. No matter what we report.

Yes, we do have influence. But that is not power.

We can help create - not create, but help create - a climate that makes it easier for good government to function. We can help spur action in some cases, and we can serve as an early - warning system for society's problem.

We can foster discussion on issues and events. To some extent, we set the agenda for the communities we serve.

But note that last word - serve. Our job is that of a servant, it's changing.

Nowadays, newspapers are trying to serve their readers by providing more in-depth, investigative reporting. Readers have become more sophisticated. They can get the headlines from TV and radio, and they want their newspapers to provide more than that. They want depth and background, and the stories behind the news.

The nature of those stories is changing, too. The press is not just trying to expose individual wrong-doers, or blow the whistle on isolated acts of corruption. We're not just trying to catch some official with his hand in the petty cash drawer.

Instead, we're moving towards a deeper examination of society's institutions to find why they're not working better.

Sometimes the reason is corruption. But it might also be inefficiency, mismanagement, or plain old bad planning.

Whatever the reason, it is our job to report it as fairly and accurately as we can. And let the people decide what to do about the founding fathers who thought this job was so important that they made freedom of the press the first guarantee under the Bill of Rights.

It becomes even more important as our society and its institutions grow larger, more sophisticated, and sometimes, more remote from the people.

Indeed, Thomas Jefferson once wrote, "were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter." Newspapers without government.

Jefferson, by the way, did not retract this statement after he, as president, had been abused by irresponsible newspapers. Far from it.

As he neared the end of his first term, he wrote to a friend, "no experiment can be more interesting than that we are now trying, and which we trust will end in establishing the fact that men may be governed by reason and truth."

"Our first object should therefore be to leave open to him all the avenues of truth. The most effective hitherto found, is the freedom of the press. It is, therefore, the first (which is) shut up by those who fear the investigation of their actions."

2:30 p.m. - Workshop on Organizing a
Corruption Investigation

Summary of Discussion
by D.C.I. Ed. Siedlick

The workshop on organizing a corruption investigation was an exercise designed to allow the various corruption investigators from New York, North America and Overseas to interact with each other. The students were divided into three (3) working groups in such a manner as to spread the jurisdictions represented across each one. Each group was given a fact pattern sheet which described the Agency to be investigated and certain information as to the nature of allegations and certain intelligence.

The groups were then given separate conference areas and each was instructed to select a spokesman to report on the methods that the group selected to substantiate the allegations and subsequently to proceed with an investigation. Group A choose Confidential Investigator Walter Alexander of the Office of Inspector General, New York City Taxi Limousine Commission, Group B choose William Pearson, Criminal Investigation Division, Attorney General's Office, State of Maine, while Group C selected Group Head Roger Batty, Independent Commission Against Corruption, British Crown Colony of Hong Kong.

After discussing the case, each group representative gave a presentation to the entire class. Their recommendations ran the gamut from cultivating informants, collecting time sheets and work tickets, telephone logs to conducting surveillance activities. Since the fact pattern was actually based on a prior case that was successfully conducted by the Department of Investigation, the participating investigators had standards against which to measure. The primary purpose of the exercise was to demonstrate to all present the common operational threads that run throughout these types of municipal corruption investigations. I believe we were successful in this regard. Investigators from diverse cultures and organizations found themselves discussing operational procedures that were common to their own organization. Essentially, the procedures involved the following tactics or a combination of them:

- 1) Surveillance activities
- 2) Examination of business records
- 3) Utilizing informants or undercover operatives
- 4) Interviewing techniques or more specifically obtaining the cooperation of reluctant witnesses.

We believe that this form of training was extremely useful in creating an awareness of the skills that need development for successful corruption investigations. To this end, the workshop proved exceedingly beneficial.

THURSDAY, SEPTEMBER 25, 1980

Held at New York University Graduate
School of Business Administration

9:15 a.m. - "The Use of Undercover Operations in
Corruption Investigations"

Summary of Discussion

This part of the training session centered on the undercover operational aspect of the Department of Investigation enforcement thrust against corruption. The Department has developed one of the finest and most sophisticated undercover operations in the world that is aimed specifically against corrupt activities.

The institutionalizing of this approach actually began in 1972. The then Commissioner Robert K. Ruskin was concerned over the limited success that the Department was achieving against organized corruption within the construction industry in New York City. Efforts had been mostly reactive to that point. The sophisticated manner of payoffs coupled with code of silence among officials rendered normal investigative tactics ineffective.

The formulation of a new pro-active approach was vested in the hands of then Assistant Commissioner Lupkin who opted for an undercover operation. The actual design of the covert system was assigned to Deputy Chief Investigator Ed Siedlick. A program of deep plant cover was initiated as well as an intricate method of controlling such activities.

Obviously, in such a forum as this, security dictates that actual procedural tactics not be revealed since disclosure could negatively affect current operations. Anti-corruption agencies were invited to meet with the Department should they be contemplating similar activities.

The results in the Construction Industry Bribery-Conspiracy case were astonishing. Over 100 government and construction industry officials were indicted on bribery related charges. Included in

this group were the chief construction inspector for Manhattan, several of his immediate subordinates and practically every district supervisor. Additionally, approximately 40 inspectors along with over 50 business and corporate executives were also charged. The conviction rate in this case exceeded 90%. Clearly, it had become apparent that the undercover approach was going to be an effective weapon against rooting out organized corruption.

The success rate of this tactic remains high as evidenced by the successes during 1980, which saw the culmination of several operations.

The first was the Marshall's Bribery Conspiracy Case which concerned an investigation into possible corrupt activities of City Marshals, licensed auctioneers and wholesale buyers who regularly attended sales conducted by the City Marshalls under the auspices of the Civil Court of the City of New York. The Department had developed intelligence that indicated that sham auctions were routinely being conducted in return for illegal payments. The covert operation was carried out for approximately one year. Undercover officers documented a pattern of illicit payments through tape recordings and verified by covert surveillance.

The Department decided to present the evidence to the United States Attorney for the Eastern District of New York for possible violations of the Hobbs Act, Racketeer Influenced and Corrupt Organizations Act of 1970 and the mail fraud statute. Twenty-one (21) persons including eleven(11) current or former City Marshalls were indicted and convicted in Federal Court. Seven(7) licensed auctioneers and two(2) buyers were either indicted and found guilty or plead to criminal informations filed. The conviction rate was 100% in this matter.

Operation Phoenix was another successful effort that employed covert tactics. This operation resulted in the arrest and indictment of eleven(11) City Officials and five(5) private contractors on conspiracy and bribery charges. The bribes were in connection with the awarding of contracts for the maintenance and repair of "in rem" residential and commercial buildings owned by the City of New York. The City had taken possession of multi-unit residential buildings through tax foreclosure proceedings.

The corruption conspiracy was penetrated by confidential operatives who revealed a well organized pattern of illegal payoffs within the section of the Housing Preservation Department that administered the program. The indictments alleged that approximately \$60,000 in bribes were paid on a regular basis to the officials to approve or not reduce maintenance payments, to inspect

favorably work already performed and to expedite the payments due. In some cases, bribes were paid to prevent the officials from actually inspecting the work.

The most current successful covert operation mounted was a two(2) year investigation into corruption in the Department of Consumer Affairs. The operation titled MADCAP culminated in bribery related charges being filed against nine(9) inspectors, thirteen (13) corporations operating supermarkets and fifty-seven(57) supermarket executives alleging illegal payments to overlook various violations of consumer protection regulations including short weighting, excess fat in meat and false advertising.

The covert operations group successfully penetrated the Special Investigating Unit (SIU) of the Department of Consumer Affairs in which organized corruption was alleged to have been taking place. The investigation also revealed a significant participation by managerial-level employees on behalf of several supermarket chains.

Another seventy-five(75) cases will be referred to various District Attorneys for possible prosecution.

These discussions were most beneficial to many of the visiting participants as they were able to examine a program to penetrate corrupt situations that had been in place for over eight(8) years. Recently the Federal Bureau of Investigation has had some successes in this approach involving official corruption. These tactics have excellent potential for Anti-Corruption organizations who want to eliminate organized corruption. Most representatives agreed that they would be closely examining the potential application of covert activities in their respective jurisdictions.

THURSDAY, SEPTEMBER 25, 1980

REMARKS BY HONORABLE EDWARD I. KOCH, MAYOR OF CITY OF NEW YORK,
BLUE ROOM, CITY HALL

4:00 P.M. - I am very proud of the Inspectors General program of the City of New York. The reason that I am especially proud of it and Commissioner Lupkin and those who perform under him, is that the Inspectors General program is not limited simply to corruption. The concept also covers new ground, competence in government. There is more incompetence in government than there is corruption and rooting out both is exactly what I hope will happen and continue to happen.

Incredibly, since corruption is endemic to the human species we are never going to reach the end of our rooting out process. It is always somebody else who will be corrupt or incompetent and you must be constantly vigilant in searching for both. That is the nature of life. I have no hesitation in saying to people that the amount of corruption that exists in government is less than the amount of corruption that exists in the private sector. The reason that the quantity of corruption in government is less than in the private sector is that the public sector is under such scrutiny. In my judgment, there is a higher standard in the government service notwithstanding newspaper columns or abscam and members of congress and others in government who occasionally will commit crimes. Percentage wise there is more integrity in government than private business conducts in their relationships with their customers. So, the fact that we have an Inspector General program both for incompetence and corruption is not because New York City is corrupt or incompetent. We have some of both. In contrast with the private sector in my judgment, there is less corruption and equal amounts of incompetence.

I hope that whatever it is that you take back to your jurisdictions in this area will make you do a better job. I will leave you with this one thought. I believe that public service is the noblest of professions if it is done honestly and if it is done well.

Thank you.

REMARKS ON BEHALF OF PARTICIPATING STUDENTS

4:30 P.M. - By Group Head Roger Batty Independent Commission against Corruption, British Crown Colony of Hong Kong, Blue Room, City Hall.

Mr. Mayor, Commissioner Lupkin, fellow students and members of the Department of Investigation of New York City. I would like to make some brief remarks on behalf of the visiting students. First, we would like to complement both New York City and the Department of Investigation for their positive and aggressive approach to corruption investigations. We, the visiting students from both North America

and Overseas are exceedingly impressed by the standards of public service demanded by New York City. We have been further impressed by the High Standards of professionalism which the Department of Investigation demands overall and particularly in its investigative methods.

The second thing I want to say and I am sure that we all will agree with this is to extend our gratification to you as our hosts for the hospitality show us.

Finally, we would like to particularly express our thanks for the education, the insights, and the overview we have had by observing you perform your duties. I'm sure every single one of us has learned a great deal by being exposed to your professionalism and dedication.

Thank you very much.

CLOSING REMARKS BY HONORABLE STANLEY N. LUPKIN
COMMISSIONER OF INVESTIGATION
BLUE ROOM, CITY HALL

4:45 PM Mayor Koch, Ladies and Gentlemen:

Today's presentation marks the closing ceremonies for the Department's fall seminar on corruption investigation.

We have administered these training courses several times over the last two years, but this one is unique. The participants in this course were representatives of law enforcement agencies in six countries and four American states.

The training courses we conduct at the Department of Investigation are very different from those that are customarily offered by colleges and law enforcement foundations. Our principal subject is corruption in government. We conduct seminars and field exercises intended to assist our participants in detecting corruption. More importantly we devote a substantial portion of our training course to the subject of corruption prevention--what we in government can do to cleanse the atmosphere in which corruption thrives and by our vigilance and strong presence, deter those who assume that the government is their's for the taking.

I am proud to have had the opportunity to welcome all of you who participated in the course to New York City. I want to pay particular tribute to Lieutenant Ed Siedlick, my Deputy Chief Investigator for his work in organizing the course and serving as host to our distinguished visitors from around the world.

I must say, too, that I am enormously proud and gratified also with the support our efforts at the Department of Investigation have received from Mayor Edward Koch.

In July, 1978, Mayor Koch initiated the Inspector General Program of which you have all heard. Along with the two commissions our colleagues belong to in Hong Kong and Singapore, it stands as the only such Independent anti-Corruption Unit in the world. In its two years of existence it has been successful in rooting out deep seated corruption in government and in saving or identifying New York City millions of dollars in lost revenue.

Since the Inspector General Program began, I have personally been contacted by State and Municipal governments in the United States seeking to implement in their cities the kind of effort being made in New York. This year the State of Massachusetts created a statewide office of Inspector General's after several months of legislative hearings at which I was privileged to describe the program we have in New York.

I sincerely hope that the course we have given will be of help to you in your work. I need not discuss before a group of individuals such as you the terrible costs of corruption in government--the threat to public health, safety and welfare, and indeed the threat to our liberty as free men and women.

Edmund Burke the famous British Statesman said that the only thing necessary for the triumph of evil was for good men to do nothing. That's why you're here.

I hope we will have the opportunity to meet again. It has been our great pleasure to spend this week with you. You will always be welcome in the City of New York.

APPENDIX A

CLASS LIST

September 1980 Session
CORRUPTION INVESTIGATION TECHNIQUES

AUSTRIA

HOFRAT DR. HEINRICH TINTNER
Department for Investigation of Economic Crime
Bundes Polizei
Vienna, Austria

CANADA

STAFF SERGEANT BOB JACKSON
Officer-in-Charge
Morality Unit
Calgary Police Service, Alberta

INSPECTOR DANIEL MCFAUL
Officer-in-Command
Fraud Unit
Ottawa City Police, Ontario

STAFF INSPECTOR WILLIAM MCCORMACK
Commander
Internal Affairs Unit
Metropolitan Toronto Police, Ontario

CONNECTICUT

CHIEF INSPECTOR STEPHEN J. GRASSO
Division of Criminal Justice
The Chief State's Attorney Office

EGYPT

HONORABLE AHMED SAMIR SAMY
Ministry of Justice
Department of Public Property Prosecutions
Arab Republic of Egypt

FOREIGN ASSISTANCE INSPECTOR IBRAHAM REZK
AID - Arab Republic of Egypt

HONG KONG

GROUP HEAD ROGER BATTY
Independent Commission Against Corruption
Crown Colony of Hong Kong

MAINE

CRIMINAL INVESTIGATOR WILLIAM PEARSON
Criminal Investigation Division
Attorney General's Office

CRIMINAL INVESTIGATOR ROBERT TUPPER
Criminal Investigation Division
Attorney General's Office

MALAYSIA

DATO RAJA MANSUR RIDZUAN
Assistant Director of Investigation
National Bureau of Investigation
Kuala Lumpur

NEW YORK

DEPUTY CHIEF INVESTIGATOR RAYMOND SHEDLICK
Nassau County District Attorney's Office
Long Island, New York

CONFIDENTIAL INVESTIGATOR THOMAS MOONEY
Office of Inspector General
Department of Buildings
City of New York

CONFIDENTIAL INVESTIGATOR ALFRED GARBAINO
Office of Inspector General
Department of Buildings
City of New York

STAFF ANALYST CHARLES HERZBURG
Office of Inspector General
Department of Buildings
City of New York

CONFIDENTIAL INVESTIGATOR JAY WEINFUSS
Office of Inspector General
Department of Consumer Affairs
City of New York

CAPTAIN VANCE HOOPER
Office of Inspector General
Department of Correction
City of New York

CONFIDENTIAL INVESTIGATOR ERNEST NASPERTO
Office of Inspector General
Department of Employment
City of New York

CONFIDENTIAL INVESTIGATOR SIDNEY SWOBODA
Office of Inspector General
Environmental Protection Agency
City of New York

CONFIDENTIAL INVESTIGATOR CAMILLE COLON
Office of Inspector General
Housing Preservation Department
City of New York

CONFIDENTIAL INVESTIGATOR MARIA HORVAT
Office of Inspector General
Housing Preservation Department
City of New York

CONFIDENTIAL INVESTIGATOR RHONDA BRYANT
Office of Inspector General
Housing Preservation Department
City of New York

CONFIDENTIAL INVESTIGATOR MARC FRANKLIN
Office of Inspector General
Housing Preservation Department
City of New York

CONFIDENTIAL INVESTIGATOR JOHN BLACKWALL
Office of Inspector General
Department of Probation
City of New York

CONFIDENTIAL INVESTIGATOR ALAN LUI
Office of Inspector General
Department of Sanitation
City of New York

CONFIDENTIAL INVESTIGATOR MAGALY MARSAMICO
Office of Inspector General
Department of Sanitation
City of New York

CONFIDENTIAL INVESTIGATOR WALTER ALEXANDER
Office of Inspector General
Taxi & Limousine Commission
City of New York

CONFIDENTIAL INVESTIGATOR THOMAS FREEMAN
Office of Inspector General
Department of Transportation
City of New York

SINGAPORE

SENIOR SPECIAL INVESTIGATOR YEO PENG SOON
Corrupt Practices Investigation Bureau
Singapore

TEXAS

LIEUTENANT J.E. FAULKNER
Operations Commander
Internal Affairs Division
Dallas Police Department

CONTINUED

1 OF 2

APPENDIX B

FACULTY

Brian Barrett, Esq..... Deputy Commissioner
 Department of Investigation
 B.A., University of Delaware
 M.S., Journalism, Columbia
 University
 J.D., Harvard University

Victor Cizanckas..... Chief, Stamford Police Department
 Graduate, Notre Dame College,
 Belmont California
 Trainer in Maintaining Municipal
 Integrity, National Institute
 of Law Enforcement and Criminal
 Justice, U.S. Department of
 Justice

Louis A. Clapes..... Mayor, City of Stamford,
 Connecticut

Richard Condon..... Chief Investigator, Office of the
 Special Prosecutor for Criminal
 Justice
 A.B., Pace College
 M.A., John Jay College
 Graduate, The British National
 Police College

Joy Dawson..... Inspector General Liaison
 Department of Investigation
 B.A., Brooklyn College
 M.A., Hunter College

Monica A. Egresits..... Chief, Check Fraud Unit
 B.A., Roger Williams College
 J.D., Temple University

Milvia DeZuani, Esq..... Examining Attorney
 Department of Investigation
 B.A., Temple University
 J.D., Temple University

Fred DeJohn, Esq..... Inspector General
 NYC Department of General Services
 B.A., New York University
 J.D., New York University

Robert Gardner..... Deputy Chief Investigator
 Department of Investigation
 B.S., John Jay College
 Graduate, F.B.I. Training Academy

Daniel E. Karson, Esq..... Assistant Commissioner
 Department of Investigation
 B.A., Ithaca College
 J.D., New York University

Stuart Klein, Esq..... Inspector General
 NYC Department of Buildings
 B.A., New York University
 J.D., Brooklyn Law School

Stanley N. Lupkin, Esq..... Commissioner
 Department of Investigation
 B.A., Columbia University
 L.L.B., New York University

Fred Mehl, Esq..... Examining Attorney
 Department of Investigation
 B.A., Yeshiva College
 M.A., Yeshiva College
 J.D., New York Law School

Michael Pietrunti..... Lieutenant, NYC Police Department
 Internal Affairs Division
 Commanding Officer, Training Unit

James Rigney..... Deputy Chief Investigator
 Department of Investigation
 A.S., John Jay College
 B.S., John Jay College

Ronald Russo, Esq..... Chief, Official Corruption Unit
 United States Attorney's Office
 Eastern District of New York
 B.A., St. Bonaventure College
 J.D., St. John's University Law School

Jay Shaw..... Publisher and President
 The Stamford Advocate
 Stamford, Connecticut

Jack Sibelman, C.P.A..... Chief Accountant
 Department of Investigation
 B.B.A., The City College of New York
 M.A., Long Island University

Edward A. Siedlick..... Deputy Chief Investigator
 Department of Investigation
 B.A., Syracuse University
 Graduate, British Command Course
 Independent Commission Against
 Corruption, Crown Colony of Hong Kong

Lawrence Silverman..... Chief, Criminal Division
 United States Attorneys Office
 Eastern District of New York
 B.A., Queens College
 J.D., Brooklyn Law School

Judith A. Stevens..... Director, Corruption Prevention
and Management Review Bureau
B.A., Randolph Macon Woman's College
M.A., New York University
J.D., Fordham University

Harold Wilson..... Chief, Consumer Fraud and
Complaint Bureau
New York County District Attorney's
Office.

APPENDIX C

TRAINING COURSE
IN
CORRUPTION INVESTIGATION TECHNIQUES

Held at

NEW YORK CITY DEPARTMENT OF INVESTIGATION
130 John Street
New York, N.Y. 10038

Course Coordinators - Edward A. Siedlick & Joy Dawson

PROGRAM

PHASE I
CRIMINAL JUSTICE ENFORCEMENT IN NEW YORK CITY

Wednesday, September 17, 1980

9:30 - 10:30 Orientation

10:30 - 11:00 Address by Commissioner of Investigation

11:00 - 12:00 Department of Investigation Operations

12:00 - 1:00 Lunch

1:00 - 2:00 Law Enforcement Structure in N.Y.C. - James Rigney

2:00 - 5:00 Panel discussion - Investigating Corruption within the
Inspectional Services function of Government

Robert Gardner
Daniel Karson

Thursday, September 18, 1980

9:30 - 12:00 Police Corruption Investigations
Seminar with Personnel of Internal Affairs Division of Police
Department. Lecture and Discussion of Investigative Techniques,
Problems and Current Police Corruption Trends

12:00 - 1:00 Lunch

1:00 - 5:30 Prosecutions in Federal Courts
Eastern District of New York
Discussion of Federal Corruption Prosecutions with the Chief of
the Corruption Unit and the Chief of the Criminal Division.
Discussion of Racketeer Influenced and Corrupt Organizations
Statute (RICO) and Hobbs Act Violations

Lieutenant Michael Pieturmti
Internal Affairs Division

Lawrence Silverman, Esq.
Ronald Russo, Esq.

Friday, September 19, 1980

9:30 - 12:00

Prosecution in New York State Supreme Court
Operations of New York County District Attorney's Office
from Indictment through Trial. Includes an actual viewing
of trial in progress and conference with Supreme Court
Justice.

Harold Wilson
Chief of Consumer Fraud
and Complaint Bureau

12:00 - 1:00

Lunch

1:00 - 2:00

Police Communications in New York City
911 System, Sprint, NYSPIN, NCIC

2:00 - 3:00

Central Booking Facilities
Police Headquarters

3:00 - 5:00

Role of Special State Prosecutor to Investigate
Criminal Justice System in New York City
2 World Trade Center
On-site conference with Chief Investigator
Discussion of manner in which investigations are carried out

Richard Condon
Chief Investigator

TRAINING COURSE
IN
CORRUPTION INVESTIGATION TECHNIQUES

Held at

NEW YORK UNIVERSITY GRADUATE SCHOOL OF BUSINESS ADMINISTRATION
100 Trinity Place, New York City

PROGRAM

PHASE II

Monday, September 22, 1980

9:00 - 9:15

Introduction

9:15 - 10:15

The Organization and Structure of Corruption Investigations
within New York City

Joy Dawson

10:15 - 11:15

Analysis of Corruption Investigatory Process

Edward Siedlick

11:30 - 12:30

Case Folder Management

Joy Dawson

12:30 - 1:30

Lunch

1:30 - 3:00

Examination of Business and Financial Records
Explanation of basic corporate, government and financial accounts.

Jack Sibelman, CPA

3:00 - 4:00

Program Faud
Practical tools to assist investigator in detecting illegal
payments, padded bills and payrolls

Fred Mehl, Esq.
Milvia DeZuani, Esq.

4:00 - 5:00

Purchase and Inventory Fraud

Fred DeJohn, Esq.
Inspector General
Department of General Services

Tuesday, September 23, 1980

9:15 - 11:15 Interviews and Interrogations
James Hildebrand

11:15 - 12:30 Securing Witness Cooperation
Brian Barrett, Esq.

12:30 - 1:30 Lunch

1:30 - 2:30 Organizing Surveillance Operations
Edward Siedlick

2:30 - 5:00 Comparative Corruption Investigative Organizations and Methods
Class Participation

Wednesday, September 24, 1980

Field trip to Stamford Connecticut. This day will be hosted by the Department of Special Investigations of the Stamford Police Department, Chief Victor I. Cizanckas. Chief Cizanckas is a nationally known lecturer on Maintaining Municipal Integrity with the Law Enforcement Assistance Administration, United States Department of Justice.

9:30 - 10:00 Estabilshing a Climate for Reform and its Political Consequence
Mayor Louis A. Clapes
City of Stamford

10:00 - 11:00 Implementation, Consequences and Results
Chief Victor I. Cizanckas

11:00 - 11:10 Break

11:00 - 11:45 Role of Media in Exposing Corruption
Anthony Dolan
Pulitzer Prize Winner
Investigative Reporter

11:45 - 12:30 Social Break

12:30 - 1:30 Lunch

1:45 - 4:15 Workshop on Organizing a Corruption Investigation

Thursday, September 25, 1980

9:15 - 12:15 The Use of Informants and Undercover Operations in Corruption Investigations. This will be an in depth analysis of organizing such activities. Operational problems will be discussed with particular attention to the issue of entrapment.
Edward Siedlick
Stuart Klein
Inspector General
Department of Buildings

12:15 - 1:15 Lunch

1:15 - 4:00 The Use of Electronic Equipment
DOI Technical Section

4:00 - 5:00 Concluding remarks
Mayor Edward I. Koch
Commissioner Stanley N. Lupkir
Visiting Students
Representative

7:00 PM PROBLEMS OF INVESTIGATING ILLEGAL PAYMENTS by MULTI-NATIONAL CORPORATIONS
Honorable Michael Hershman
Deputy Auditor General
Agency for International
Development
United States Government

This will be a working dinner at the Officers Club, Brooklyn Navy Yard. The address will be followed by a question and answer session.

Friday, September 26, 1980

9:15 - 1:00 Surveillance Field Exercise
This will be an actual field exercise by a student surveillance team who will plan and execute a surveillance operation in a bribery situation. Students will utilize electronic equipment, obtain evidence and effect the "arrest" of subject.

1:00 - 2:00 Lunch

2:00 - 3:00 Discussion

3:00 - 5:00 Presentation of Certificates
Stanley N. Lupkin
Commissioner of Investigation

APPENDIX D

PREFACE

Executive Order No. 16, issued by the Mayor on July 26, 1978, requires that it be distributed to all City officers and employees. This Executive Order details responsibilities of the Commissioner of Investigation, Agency Heads, Inspectors General, persons and entities doing business with the City, and City officers and employees.

Section 1 of this Executive Order establishes that the Commissioner of Investigation will conduct investigations or studies with respect to any agency, receive and act upon complaints, and act as liaison with law enforcement and regulatory agencies with a view toward eliminating corrupt or other criminal activities, conflicts of interest, and other misconduct or deficiencies.

Agency Heads will work with the Commissioner to establish standards of conduct and fair disciplinary systems.

There will be an Inspector General for each City department or agency within the City of New York, who shall report directly to the agency head and to the Commissioner of Investigation.

Inspectors General are responsible for maintaining standards of conduct and disciplinary systems as well as investigating criminal activity, conflicts of interest, and other misconduct or deficiencies in their agencies.

Each officer and employee is required to report promptly to the Inspector General or the Department of Investigation information concerning corruption (for example, offers or payments of bribes or gratuities), criminal activity or conflicts of interest.

The Executive Order also establishes procedures for formal and informal disciplinary proceedings.

The name and telephone number of all Inspectors General is attached. The failure of any officer or employee to report as required shall constitute cause for dismissal or other appropriate penalty.

As of January 1, 1979, promotional exams will include material covered by this Executive Order, as well as relevant portions of the Penal Law, the City Charter and Code of Ethics, all of which are included with this handout.



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

TEXT OF EXECUTIVE ORDER NO. 16

JULY 26, 1978

COMMISSIONER OF INVESTIGATION, INSPECTORS
GENERAL AND STANDARDS OF PUBLIC SERVICE

By the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Responsibilities of Commissioner. The Commissioner of Investigation (hereinafter called the Commissioner) shall have general responsibility for the investigation and elimination of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence (i) by City agencies, (ii) by City officers and employees, and (iii) by persons regulated by, doing business with or receiving funds directly or indirectly from the City (hereinafter called persons dealing with the City), with respect to their dealings with the City. For these purposes the Commissioner shall: (a) assist agency heads in establishing and maintaining standards of conduct together with fair and efficient disciplinary systems; (b) direct the activities of the Inspectors General of all agencies of the City; (c) conduct background investigations of employees to be appointed to or holding positions of responsibility; (d) receive complaints and information from the public with respect to City agencies, officers, and employees, as well as persons dealing with the City, and to take appropriate action with respect to such complaints; (e) undertake any investigation or study of the affairs, functions, accounts, methods, personnel or efficiency of any agency; and (f) act as liaison with federal, state and local law enforcement and regulatory agencies concerning all matters within the scope of this Order.

§ 2. Responsibilities of Agency Heads. All agency heads shall be responsible for establishing, subject to review for completeness and inter-agency consistency by the Commissioner, written standards of conduct for the officials and employees of their respective agencies and fair and efficient disciplinary systems to maintain those standards of conduct.

§ 3. Responsibilities of Inspectors General.

(a) All agencies shall have an Inspector General who shall report directly to the respective agency head and to the Commissioner and be responsible for maintaining standards of conduct as may be established in such agency under this Order. Inspectors General shall be responsible for the investigation and elimination of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct and incompetence within their respective agencies.

(b) Except to the extent otherwise provided by law, the employment or continued employment of all existing and prospective Inspectors General and members of their staffs shall be subject to complete background investigations and approval by the Department of Investigation.

§ 4. Investigations.

(a) Within the scope of the general responsibility of the Commissioner set forth in Section 1 of this Order, the Commissioner shall have authority to examine, copy or remove any document prepared, maintained or held by any agency except those documents which may not be so disclosed according to law. Inspectors General shall have the same authority in their respective agencies.

(b) The Commissioner and, with the approval of the Commissioner, the Inspectors General and any person under the supervision of the Commissioner or the Inspectors General, may require any officer or employee of the City to answer questions concerning any matter related to the performance of his or her official duties or any person dealing with the City, concerning such dealings with the City, after first being advised that neither their statements nor any information or evidence derived therefrom will be used against them in a subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of an officer or employee to answer questions on the condition described in this paragraph shall constitute cause for removal from office or employment or other appropriate penalty. Beginning September 1, 1978 all contracts, leases, licenses or other agreements entered into or issued by the City shall contain a provision approved as to form by the Corporation Counsel permitting the City to terminate such agreement or to take other appropriate action upon the refusal of a person dealing with the City to answer questions in relation to such agreements on the condition of testimonial or use immunity described in this paragraph.

(c) Every officer or employee of the City shall cooperate fully with the Commissioner and the Inspectors General. Interference with or obstruction of an investigation conducted by the Commissioner or an Inspector General shall constitute cause for removal from office or employment or other appropriate penalty.

(d) Every officer and employee of the City shall have the affirmative obligation to report, directly and without undue delay, to the Commissioner or an Inspector General any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity or conflict of interest, (i) by another City officer or employee, which concerns his or her office or employment, or (ii) by persons dealing with the City, which concerns their dealings with the City. The knowing failure of any officer or employee to report as required above shall constitute cause for removal from office or employment or other appropriate penalty.

(e) Upon receipt of any information concerning corrupt or other criminal activity or conflict of interest related to his or her agency, the Inspector General of such agency shall report directly and without undue delay such information to the Department of Investigation, and shall proceed in accordance with the Commissioner's directions.

(f) No officer or employee other than the Commissioner, an Inspector General, or an officer or employee under their supervision, shall conduct any investigation concerning corrupt or other criminal activity or conflicts of interest without the prior approval of the Commissioner or an Inspector General.

§ 5. Formal Disciplinary Proceedings.

(a) Within six months of the effective date of this Order, the Inspector General of each agency shall be responsible for the preparation and prosecution of all formal administrative proceedings, including removal and other disciplinary proceedings for misconduct or incompetency, initiated by such Inspector General or any other person authorized by the agency head to initiate such proceedings on behalf of the agency. The Inspector General or an attorney-designee (including attorneys of the Department of Investigation) shall prosecute such matters. Any agency head may for good cause apply to the Commissioner for the modification or waiver of any provision of this paragraph.

(b) The Inspector General of an agency may, with the approval of the agency head, suspend any officer or employee of that agency, pending the timely service of formal charges.

(c) Officers or employees of the City convicted of a crime relating to their office or employment, involving moral turpitude or which bears upon their fitness or ability to perform their duties or responsibilities, shall be removed from such office or employment, absent compelling mitigating circumstances set forth in writing by the head of the employing agency. Proof of said conviction, as a basis for removal or other disciplinary action, must be established in accordance with applicable law.

§ 6. Informal Disciplinary Proceedings.

(a) Each agency head shall, with the advice of the Commissioner, establish appropriate reporting requirements, disposition standards and other administrative procedures for informal disciplinary proceedings to permit the fair and expeditious resolution of minor violations of the standards of conduct established by such agency head under this Order, without prejudice to any rights provided to officers or employees of the City by law or by contract.

(b) Informal disciplinary proceedings may be undertaken on the following conditions: (i) the employee or official who is the subject of such proceedings shall consent to accept a predetermined penalty upon a finding of cause in lieu of the filing of a formal disciplinary charge; and (ii) the record and result of the informal disciplinary proceedings shall be expunged from all permanent personnel or employment files of the subject official or employee after one year in which such person has not been penalized as a result of any subsequent formal or informal disciplinary proceedings.

(c) The Inspector General of each agency shall be notified of the disposition of all informal disciplinary proceedings.

§ 7. Background Investigations.

(a) The Department of Investigation shall conduct background investigations of all persons to be appointed to or employed in positions with salary rates equal to or greater than the minimum rate of the Management Pay Plan or any successor plan, whether or not the person is to become a member of such plan.

(b) Background investigations need not be made under this Order with respect to the appointment or employment of persons for positions with salary rates equal to or greater than the minimum rate of the Management Pay Plan or any successor plan where such person is to be appointed to a permanent civil service position in the competitive class.

(c) The Mayor or an agency head may in the public interest direct that the appointment, employment or assignment of any person be subject to a background investigation by the Department of Investigation.

(d) The appointment or employment of any person requiring background investigations under this Order shall be made subject to the completion of such investigation and a determination by the appointing authority that the appointee has the appropriate qualifications, is free from actual or potential conflicts of interest and is one in whom the public trust may be placed.

(e) All prospective appointees and employees subject to background investigation under this Order shall comply with all procedures established by the Commissioner for such purpose, including the completion of a background questionnaire and full disclosure of financial holdings and relationships.

(f) Background investigations conducted under this Order shall include the collection of all available criminal history information relating to the prospective appointee, which shall be considered in accordance with applicable law.

(g) The making by a person of an intentional false or misleading statement in connection with a background investigation required under this Order, or otherwise failing to comply with the background investigation procedures established by the Commissioner, may constitute cause for removal from office or employment or other appropriate penalty.

§ 8. Dissemination of Information.

(a) All agency heads shall distribute to each officer and employee of their respective agencies within 90 days of the effective date of this Order and to each officer and employee appointed thereafter, a statement prepared by the Commissioner explaining the responsibilities of the Commissioner, Inspectors General, agency heads and all City officers and employees under this Order.

(b) Knowledge of the responsibilities of the Commissioner of Investigation and the Inspectors General and of relevant provisions of Articles 195 and 200 of the Penal Law, the City Charter, the Code of Ethics and this Order shall constitute an employment responsibility which every officer and employee is expected to know and to implement as part of their job duties and is to be tested in promotional examinations beginning January 1, 1979.

§ 9. Regulations and Procedures. The Commissioner may establish such regulations, procedures and reporting requirements with respect to Inspectors General or as may be otherwise necessary or proper to fulfill the Commissioner's responsibilities under this Order and other applicable law. The Inspectors General may, with the approval of the Commissioner and the respective agency heads, establish such regulations and procedures as may be necessary or proper to fulfill their responsibilities under this Order and other applicable law.

§ 10. Waiver of Provisions. Any agency head may for good cause apply to the Commissioner for the modification or waiver of any provision within the jurisdiction of the Commissioner under this Order.

§ 11. Construction with Other Laws. Nothing in this Order shall be deemed to limit the powers and duties of the Commissioner, the Department of Investigation, the Department of Personnel, the Office of Municipal Labor Relations or any other agency under the City Charter or as may be otherwise provided by law.

§ 12. Preservation of Rights. Nothing in this Order shall be deemed to limit the rights of any person under law or contract.

§ 13. Revocation of Executive Orders. Executive Order No. 21, dated August 19, 1970, Executive Order No. 21, dated October 17, 1974, and Personnel Policy and Procedure No. 715-77, dated February 15, 1977 are hereby revoked.

§ 14. Effective Date. This Order shall take effect immediately.

EDWARD I. KOCH
MAYOR

APPENDIX E

TEXT OF NYC CHARTER

CHAPTER 34

DEPARTMENT OF INVESTIGATION

Section

- 801. Department; commissioner
- 802. Deputies
- 803. Powers and duties
- 804. Complaint bureau
- 805. Conduct of investigations
- 806. Interference with investigation
- 807. Inspectors general of agencies

§ 801. Department; commissioner. There shall be a department of investigation the head of which shall be the commissioner of investigation. He shall be a member of the bar of the state of New York in good standing and shall have had at least five years of law enforcement experience. (Amended by vote of the electors, Nov. 4, 1975)

§ 802. Deputies. The commissioner may appoint two deputies, either of whom may, subject to the direction of the commissioner, conduct or preside at any investigations authorized by this chapter.

§ 803. Powers and duties. a. The commissioner shall make any investigation directed by the mayor or the council.

b. The commissioner is authorized and empowered to make any study or investigation which in his opinion may be in the best interests of the city, including but not limited to investigations of the affairs, functions, accounts, methods, personnel or efficiency of any agency.

c. For any investigation made pursuant to this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the requesting party, if any. In the event that the matter investigated involves or may involve allegations of criminal conduct, the commissioner, upon completion of the investigation, shall also forward a copy of his written report or statement of findings to the appropriate prosecuting attorney, or, in the event the matter investigated involves or may involve a conflict of interest or unethical conduct, to the board of ethics.

d. The jurisdiction of the commissioner shall extend to any agency, officer, or employee of the city, or any person or entity doing business with the city, or any person or entity who is paid or receives money from or through the city or any agency of the city. (Amended by vote of the electors, Nov. 4, 1975)

§ 804. Complaint bureau. There shall be a complaint bureau in the department which shall receive complaints from the public.

§ 805. Conduct of investigations. a. For the purpose of ascertaining facts in connection with any study or investigation authorized by this chapter, the commissioner and each deputy shall have full power to compel the attendance of witnesses, to administer oaths and to examine such persons as he may deem necessary.

b. The commissioner or any agent or employee of the department duly designated in writing by him for such purposes may administer oaths or affirmations, examine witnesses in public or private hearing, receive evidence and preside at or conduct any such study or investigation.

§ 806. Interference with investigation. a. No person shall prevent, seek to prevent, interfere with, obstruct, or otherwise hinder any study or investigation being conducted pursuant to this chapter. Any violation of this section shall constitute cause for suspension or removal from office or employment.

b. Full cooperation with the commissioner shall be afforded by every officer or employee of the city or other persons. (Adopted by vote of the electors, Nov. 4, 1975)

§ 807. Inspectors general of agencies. No person shall be appointed as an inspector general of a city agency unless such appointment is approved by the commissioner of investigation. The commissioner of investigation shall promulgate standards of conduct and shall monitor and evaluate the activities of inspectors general in the agencies to assure uniformity of activity by them. (Adopted by vote of the electors, Nov. 4, 1975)

END