

ACQUISITIONS

DEPARTMENT OF CONSUMER AFFAIRS

DIVISION OF CONSUMER SERVICES

COOPERATIVE CONSUMER PROTECTION PROGRAM

FEASIBILITY STUDY

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INTRODUCTION

This feasibility study was prepared under contract by the Department of General Services' Data Processing Services Office for the Department of Consumer Affairs' Division of Consumer Services. The services for the study were provided for the amount of \$6,500 under Interagency Agreement #DP7.

According to the U.S. Department of Commerce Handbook on White Collar Crime, published in 1974, California consumers are losing over four billion dollars a year due to illegal and deceptive business practices (Appendix A, page 5). As the magnitude of consumer fraud¹ has become apparent, concerns have been voiced throughout the state. The District Attorney's Office in Los Angeles prepared a feasibility study which recommended the establishment of a countywide complaint data gathering system for the purpose of sharing complaint information. The system was not implemented due to lack of funding. The Federal Trade Commission implemented a data sharing system in California in which the Attorney General's Office and several district attorney offices participated. It was unsuccessful due to its complexity and the length of time required by users to input data. In 1975, the Director of Consumer Affairs submitted a proposal to the Office of Criminal Justice Planning which outlined a concept of statewide sharing of all available complaint information. The proposal was approved, funding was provided effective August 1, 1976, and the Cooperative Consumer Protection Program was created within the Division of Consumer Services. The three year proposal, funded by the Law Enforcement Assistance Administration, will provide resources for the development and initial implementation of a statewide complaint data gathering system that includes law enforcement,

¹Consumer fraud is the largest portion (about 50%) of white collar crime, which also includes such areas as embezzlement, securities thefts and fraud, and insurance fraud (Appendix A, page 6).

regulatory, and consumer protection agencies. The preliminary work of the program staff has led to this feasibility study.

DELIMITATION OF RESPONSIBILITY

The Department of Consumer Affairs was created by the Consumer Affairs Act of 1970 (Appendix B) which sets forth its responsibilities to California consumers. Section 310 of the Business and Professions Code mandates the Director to

"Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers; represent the consumer's interests before federal and state legislative hearings and executive commissions; assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of consumers; study, investigate, research and analyze matters affecting the interests of consumers; call upon other state agencies for information; and maintain contact and liaison with consumer groups in California and nationally."

In 1971, the Governor established a Consumer Fraud Task Force to recommend ways to implement the mandates in Section 310 relating to consumer fraud. Their report (Appendix C), published in 1973, recommended that:

- Agencies and offices involved in consumer protection and consumer fraud pursuit make concerted efforts to coordinate functions.
- Offices receiving complaints from consumers be certain their receiving personnel have a thorough knowledge of the other offices active in the field, so that a complaint may be handled by the office(s) having jurisdictional authority.
- Complaint procedures be streamlined so that complaints are received, recorded, cross-referenced, and patterns of fraud are detected promptly and efficiently. This should be done on a statewide basis.
- The Director of the Department of Consumer Affairs take the initiative to coordinate the various governmental offices involved in consumer protection.

To date these recommendations have not been implemented.

PROBLEM DEFINITION SECTION

State and local consumer protection and consumer fraud agencies are currently unable to act with maximum effectiveness to eliminate fraudulent business

practices and deceptive activities for two reasons: First, the agencies lack manpower and resources sufficient to respond to the increasing number of consumer complaints, which results in more "crisis intervention" and less "preventive maintenance". Instead of concentrating on ways to keep specific types of economic crime from occurring or recurring and spreading throughout the state, most of the available resources must be directed toward investigating and prosecuting "priority" violations. Second, there is no timely and effective communications link between the numerous complaint handling agencies throughout the state.

A complaint handling agency, such as a District Attorney's Office or a county consumer protection agency, receives consumer complaints from several sources. The consumer may write, telephone, or visit the agency, the complaint may be referred by another agency, or an agency may institute its own complaints. Whatever the source, the complaint is kept in an open case file while a decision is made whether or not to investigate it further. This decision is usually based on the severity of the complaint, the number of complaints received against that particular business or individual, and the available resources within the agency. Once the decision is made to follow up a complaint, the investigator must deal with some problems unique to consumer fraud cases. There are three problems that have a major effect on an investigation. First, the victim may not know enough about his complaint to describe it accurately. For example, the victim may complain about slow delivery, not realizing delivery was never intended. Second, in many cases the investigating unit cannot tell whether or not a crime has been committed unless a pattern of similar incidents shows up. Third, many fraudulent schemes are designed to go undiscovered until months after the perpetrators have left the area. It is obvious that the perpetrators are aware of the current absence of any county-to-county reporting, and are taking advantage of this fault. Thus, violators can move from jurisdiction to

jurisdiction with little fear of prosecution. The overall effect of these obstacles to an investigation is a reduction in the effectiveness of law enforcement to track and convict or discourage those who defraud consumers.

A timely and effective communication link between the numerous complaint handling agencies throughout the State could resolve especially the last two problem areas. No such link currently exists. In fact, many times two or more agencies, unknown to one another, investigate and prosecute the same business or individual. Separate cases which do not reveal the scope of the illegal activities result in lower fines against the company and lower restitution for consumers. This destroys the effectiveness of penalties as deterrents of future illegal activities. On the other hand, an investigating agency might have a number of complaints against a company, which by themselves are not sufficient to file charges. However, there could be many times that number of complaints in various agencies throughout the state. These complaints could, when assembled, represent a significant violation of the law.

The problem of effective communication is a major one, due to the number of agencies involved in the investigation and prosecution of white collar crime. In California alone there are 58 District Attorneys, 17 County Consumer Protection Agencies, 4 Attorney General Fraud Divisions, over 42 Regulatory Boards, Bureaus, and Commissions, and numerous City Attorneys investigating consumer complaints. In addition, complaints are handled by many police departments and sheriffs' offices. Due to the volume of complaints received by consumer fraud units (Attorney General's Office estimates 15,000 per year; District Attorney pilot participation of 8 counties alone is estimated at 10,000 per year) and by the Department of Consumer Affairs (over 100,000 per year), the present manual and decentralized information systems are substantially lacking in the ability to produce the necessary results.

Quantifying the problems that exist is extremely difficult. Because of the lack of communication among the various agencies, information gathered regarding illegal activities conducted by specific businesses is haphazard at best. Only through chance discussions at meetings or by random telephone calls to selective agencies is information exchanged. There are no reports generated which consolidate and catalogue deceptive or illegal business practices.

Because of the complexity of the latest schemes, the modus operandi of the operators and their mobility, and the need for accurate and reliable complaint statistics, it would appear that only a statewide information sharing system can keep fraud investigators fully informed. The Office of the Attorney General, district attorneys, and county consumer affairs offices have verified the need for the Department to develop such a system (Appendix D). They believe it would reduce duplication of effort by investigating agencies and increase cooperation between them, while preventing fly-by-night operators from avoiding local detection or apprehension.

STATEMENT OF OBJECTIVES

1. Develop a complaint data bank which will provide users with information sufficient to:
 - . Increase the number and impact of civil and criminal prosecutions.
 - . Strengthen disciplinary actions, thereby increasing the number of revocations and suspensions of licenses.
 - . Secure voluntary compliance with the laws.
 - . Eliminate duplication of investigative and prosecutory activity.
 - . Identify trends and geographical movement on a timely basis.
 - . Eliminate manual record-keeping systems.
 - . Recover maximum revenue for governmental agencies.
 - . Recover maximum dollars for consumers.
 - . Issue timely consumer alerts.

These objectives are quantified in the performance criteria beginning on on page 8.

2. Develop statistical reports which will:
 - . Identify and support necessary consumer legislation.
 - . Assist users in prioritizing available manpower and other resources.
 - . Assist users in identifying and supporting the need for additional resources.
 - . Provide units within the Division of Consumer Services and other non-users with information helpful in resolving critical consumer issues.
3. To the largest extent possible, bring into the developed system every complaint handling agency in the state.

PERFORMANCE CRITERIA

The following information products are required and will be created to provide the tools with which users and other consumer protection units of government can meet the stated objectives.

1. Complaints submitted by a user will be merged into a current history file. Updated information will be forwarded to that user weekly and will contain:
 - a. Matches to every complaint submitted by all other agencies throughout the State involving that user's respondents. The match information will indicate other agencies handling those complaints, contact names, and latest action taken on each complaint.
 - b. Cross-referencing, by respondent, of all other known business/individual names related to those respondents.
2. Reports will be forwarded to each user monthly to quarterly, indicating, by totals and percentages, the nature and scope of complained-about activities within that user's purview, each jurisdictional area, and statewide. The reports will compare current and prior periods to indicate shifts and trends.
3. A report will be forwarded each month to all users indicating respondents for whom five or more complaints have been recorded statewide within the current file period.
4. Special reports will be provided to each user, on request, detailing a particular product or service, a specific problem relating to a product

or service, or a specific problem relating to the entire complaint file.

5. Regulatory boards and bureaus will receive information sufficient to identify licensees and unlicensed activity.
6. Requests by users for interim update information will be handled by telephone daily.
7. Special alerts will be provided to each user, consumer groups, the media and the general public regarding the existence and movement of particular illegal or deceptive activities, as necessary.
8. Reports will be forwarded to non-user consumer protection units of government which indicate predominant areas of consumer concern needing legislation, rule changes or other action.
9. Input documents will require no more than three (3) minutes to prepare, thus minimizing staff time required to participate in the system.

Evaluation of the information products can commence after three months of the test phase of system development.

The following measurement criteria will determine if and to what extent consumer protection agencies utilizing the system are meeting the stated objectives:

1. Number of cases tried annually and their outcome.
2. Money awarded and recovered (Penalties and restitutions).
3. Number of licenses revoked or suspended.
4. Movement of illegal activity from county to county.
5. Number of complaints regarding specific products/services or types of problems.
6. Hours expended on investigations and prosecutions versus number of respondents and cases tried.
7. Percentage of manual records eliminated.

8. Number of white-collar-crime-related consumer bills introduced and passed each legislative session.
9. Number and types of users, and number of complaints input.

At your request, the following percentages were estimated by the steering committee representatives of each of the four initial user groups.

The first figures in each column represent performance after 18 months of operation, including the pilot phase. The second figures represent performance after 5 years of operation.

	<u>ATTORNEY GENERAL</u>	<u>DISTRICT ATTORNEYS</u>	<u>COUNTY CON. PROTECTION</u>	<u>REGULATORY AGENCIES</u>	<u>AVERAGE PERCENTAGES</u>
1. Increase in number of cases tried annually	20-35	(1)	N/A	N/A	20-35
2. a. Increase in money awarded (penalties, costs, restitution)	25-40	20-35	25-50	10-15	20-35
b. Corresponding dollar increases	\$187,500 -300,000	\$300,000 -525,000	\$7,500 -15,000	N/A	
3. Increase in revocations/suspensions of licenses	N/A	N/A	N/A	0-10	0-10
4. Decrease in movement of illegal activity	15-25	10-20	20-35	5-10	13-23
5. Decrease in complaints regarding 20 specific businesses/problems	20-45	10-20	30-55	10-15	18-34
6. Increase in cases investigated - no increase in manpower.	20-35	15-20	25-40	0-0	15-24
7. Decrease in manual recordkeeping	40-40	40-40	25-40	15-15	30-34
8. The Division of Consumer Services analyzes 600 - 700 consumer bills each year. 350-400 of these are clarifications to existing legislation which					

(1) The District Attorneys recognize a potential increase in cases tried; however, they feel the major thrust will be the increased number of consumers who will benefit from better cases, and the impact to other would-be offenders due to the increased scope of the cases.

would not be necessary if the intent and scope of the original legislation was properly researched and defined. Hard data from this system will have a significant impact on future reduction of "clarification bills"; however, no percentage estimate has been made.

9. The number and types of users and numbers of complaints, after 18 months and 5 years, are estimated by the program staff as follows:

	<u>ATTORNEY GENERAL</u>	<u>DISTRICT ATTORNEYS</u>	<u>CITY ATTORNEYS</u>	<u>COUNTY CON. PROTECTION</u>	<u>REGULATORY AGENCIES</u>	<u>TOTAL</u>
USERS:	1-1	10-20	2-4	5-10	7-15	25-50
COMPLAINTS:	16,500- 21,500	11,500- 17,600	2,000- 4,700	28,300- 56,300	81,700- 129,900	140,000- 230,000

Items 1 through 7, and item 9, will be measured by the data accumulated on the original and follow-up input documents, and by the Transient Crew data (document not yet developed). At the end of the six month evaluation period, including six months of prior history collected at its onset, we will have a full year of data, which will comprise a measurement base. After 12 months, we will have another half year of activity which will be compared to the base year to commence measurement of program effectiveness.

In order to accurately measure the program's effectiveness, data must first be collected with which to establish a basis for comparison. Each user entering the system will be requested to supply Departmental staff with information regarding current activities, including number of complaints/cases handled, number of civil and criminal prosecutions, number of judgements, number of disciplinary actions and their results, amount of money recovered, and all other available information. Evaluation of program performance can then be made on user, user group and statewide bases. The six month history will allow program evaluation to be accelerated so that it falls within the grant period. In addition it will provide an immediate base for reporting so that complaint matching can commence when the system is implemented.

IDENTIFICATION OF CONSTRAINTS

The implementation of the project must follow all guidelines and procedures as established in the State Administrative Manual. The confidentiality and disclosure to non-users of data collected by this system are governed by the provisions of the Federal Crime Control Act of 1973 and the Freedom of Information Act. Safeguards must be built into the system to prevent the premature disclosure of critical information to user agencies, where such disclosure would jeopardize an investigation.

CONSEQUENCES OF FAILURE TO ACT

One of the major consequences of the absence of a statewide complaint data system is that even "Consequences of Failure to Act" cannot be addressed with supportable, accurate statistics. No comprehensive information exists which quantifies the scope of white collar crime in California, as well as the problems which inhibit its reduction.

We can, however, describe the problems generally from information gathered randomly from attorney general and district attorney deputies, as well as guarantee that these problems will not be resolved until and unless an information sharing and statistical data gathering system is developed and implemented.

From information we have been able to accumulate, we can project losses of hundreds of thousands of dollars annually in penalties and injunctive relief, as well as the expenditure of thousands of man-hours due to duplicated investigatory and prosecutory activities. These and other problems are described in more detail below:

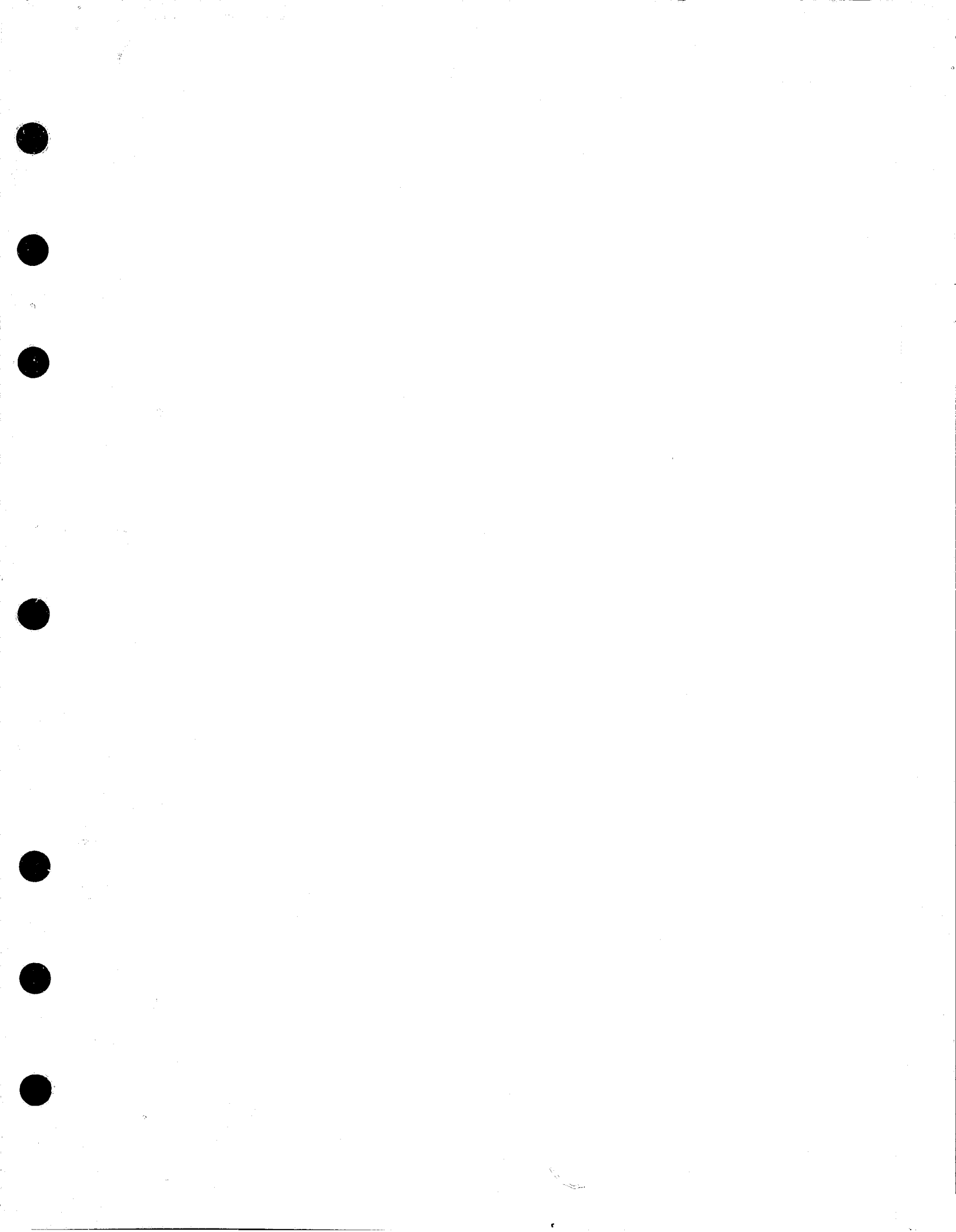
1. In the absence of cases which reflect all of the deceptive and illegal activities practiced by a company/individual, sufficient penalties are not assessed by the courts to deter future like offenses by the same or other companies. For example; a recent case prosecuted by a deputy

district attorney resulted in a \$5,000 fine, an amount insufficient to deter a large company from repeated illegal activities. If the deputy had been aware of all the existing complaints against that particular business, close to \$150,000 in fines could have been assessed.

2. Cases involving the same business are being investigated and prosecuted by several agencies simultaneously. There have been up to ten (10) lawsuits against the same business in progress at the same time. Legislators have criticized law enforcement agencies for what they consider "piecemeal" investigations and for causing undue hardship on and harassment of businesspeople. In addition, separate lawsuits increase taxes and crowd court calendars.
3. Nine-hundred people were cheated by a business opportunities company during this past year. None of the agencies involved had more than one complaint, which was insufficient to take action. An action on the total complaints would have prevented the bulk of the people from being cheated.
4. An agency's settlement of a case precluded prosecution of earlier, like violations by the same company, which other agencies were investigating. This recent court decision is being challenged; however, irrespective of the outcome, thousands of dollars and hundreds of man-hours will be spent in attempting to overturn the court's decision.
5. Law enforcement and other consumer protection agencies have severely restricted budgets. They are able to work only "priority" cases, and have virtually no time to devote to preventive activities such as compiling information on transient operations and warning other agencies in advance.
6. Each year, the Legislature and the Department of Finance criticize the regulatory boards and bureaus within the Department of Consumer

Affairs for their lack of well-defined and categorized statistics which describe whether and/or to what extent they are meeting their objectives. The boards have only manual recordkeeping systems with insufficient staff to maintain them. These systems do not enable the boards to respond satisfactorily.

In summary, the problems that plague complaint handlers are restricting their efforts to reduce economic crime in California. Although several mini-systems exist, both manual and computerized, within some agencies, they do not and cannot address the real issue---that of cooperating with one another and sharing information for maximum effectiveness and impact, as well as identifying significant consumer concerns.



SOLUTION ANALYSIS SECTION

INTRODUCTION

To assist in the formulation of this system, a Steering Committee of user representatives was formed during November, 1976. The purpose of this committee is two-fold. First, and most importantly, it will guide the development and implementation of the project. The recommendations of the committee serve to develop the criteria with which to design the program. Second, it provides a liaison with the potential users throughout the state. It allows these users to voice their opinions through their representatives. The committee is composed of the following members:

Attorney General Representatives

Herschel Elkins, Deputy Attorney General, Los Angeles Office
Bob Hatton, Deputy Attorney General, Sacramento Office

Regulatory Board/Bureau Representative

Don Procida, Administrator, Tax Preparer's Program
Department of Consumer Affairs

District Attorney Representative

Robert Blasier, Jr., Deputy District Attorney
Contra Costa County District Attorney's Office
Chairman, District Attorney's Indexing Committee

County Consumer Protection Agency Representative

Kathie Mabic, Consumer Affairs Analyst
Santa Cruz Department of Weights, Measures and Consumer Affairs
President, California Consumer Affairs Association

Department of Consumer Affairs Administrative Staff

Richard Elbrecht, Supervising Attorney, Division of Consumer Services
Gregory Gorges, Legal Counsel, Division of Administration
Marialee Neighbours, Acting Chief, Division of Consumer Services

Program Staff

Don Hinkle, Associate Programmer Analyst
June Lomax, Cooperative Consumer Protection Program Manager

This group has determined the types of data to be stored and disseminated by the system. Consumer complaints provide the source material for the data. For the purposes of this system, "complaint" is defined as "a grievance alleged in writing by the consuming public against a business or individual." We expect all complaints as defined to be input as a condition of participation.

The Steering Committee has recommended implementation of a six month evaluation period using a portion of the potential user agencies. As it is well-known that a new system may require modifications, this evaluation will allow changes (such as report formats and frequencies, and code changes) to be made on a smaller scale. After the system has been refined and proven, it will be offered to all governmental complaint handling agencies who wish to participate. Expansion will occur gradually, by adding 5 - 10 new users each year. Approximately seventeen users, or 22% of the probable user population, will be included in order to get a good cross-section for system evaluation (Appendix E).

ALTERNATIVES

In order to solve the communication problems identified in the Problem Definition Section, a centralized data handling office is necessary. This office will disseminate complaint data to using agencies that references statewide complaint activity related to the users own complaints. This will eliminate the need for each agency to be continually communicating with other agencies in the state. Since the whole purpose of the program is to gather and incorporate consumer complaint information from every possible source, three of the alternatives considered deal only with a centralized, statewide system.

In reviewing the objectives of the Cooperative Consumer Protection Program, four alternatives were considered:

- . Do not develop a statewide system.
- . Establish a manual system for cataloging complaints.
- . Install an existing automated complaint data system.
- . Develop a new automated complaint data system.

ALTERNATIVE ONE -- NO STATEWIDE SYSTEM

This alternative represents the present status of consumer complaint handling. There is no centralized, statewide program to match complaints of various complaint handling agencies. Statewide statistics which identify and track deceptive and illegal practices are not being kept. Each agency acts virtually independently, with only very limited communication with others. Since these are some of the major causes of the problems listed in the Problem Definition Section, continued decentralization is totally unacceptable to the Cooperative Consumer Protection Program Steering Committee and to the Department of Consumer Affairs.

Advantages:

1. There is no direct cost to state and local governments.

Disadvantages:

1. The 4 billion plus dollars per year loss to consumers will continue to increase.
2. Communication between complaint handling agencies will continue to be haphazard, resulting in the following:
 - . Duplication of effort in investigation and prosecution of white collar crime.
 - . Less effective prosecutions.
 - . Violators moving from jurisdiction to jurisdiction to avoid prosecution.
3. Restitution for consumers and/or penalties for violators will remain at their present low levels.
4. The lack of statistics will result in:
 - . continued non-recognition of serious consumer concerns which require legislation or rule changes.
 - . continued difficulty prioritizing resources to combat the worst areas of white collar crime, as these areas are not clearly identified.
 - . continued criticism by legislators regarding the proper categorization of complaints.
5. The Department will be unable to effectively perform its mandated functions in the area of white collar crime.

ALTERNATIVE TWO - MANUAL SYSTEM

A manual system would be the least complex way to establish a centralized statewide information sharing system. Departmental staff would be responsible for coordinating all of the information received from each of the participating agencies.

Each user would send to Consumer Affairs information on complaints received. Departmental staff would then log, cross-reference and match each complaint. In addition, if statistics were to be kept, the appropriate information would have to be segregated and tabulated. Data would have to be limited to broad categories so that the time to process each complaint would not be excessive. A user would call the program office to inquire about a particular case or respondent. A clerk would then look up the information needed. Summary statistics could be generated relatively easily from basic input categories. Special statistics would be difficult to obtain as someone would have to scan and extract particular information from each complaint.

This system would provide the users with information relative to their cases from other parts of the state. Thus the communication between agencies would be improved. However, this system would not provide:

- . detailed reports to the user of its own cases.
- . periodic county or other user group reports.
- . transient crew reports.
- . various special reports.

Each agency would have to continue to keep its own records. Special searches of the file based on multiple selections would be very expensive due to the amount of time needed.

Advantages:

1. The length of time necessary to develop and implement an automated system would be avoided.

2. User and entire file broad category statistical reports could be generated, as well as specific product/service reports (top ten categories only).
3. Matching of complaints between the various user agencies would be possible.

Disadvantages:

1. A large departmental staff would be required to handle the heavy volume of complaints.
2. Human error would reduce the accuracy of the statistics and the completeness of the cross-referencing and matching processes.
3. Manual recordkeeping within each agency would have to be maintained.
4. Special reports would be very expensive to obtain, if possible at all.
5. This alternative does not satisfy the recommendations of the Steering Committee that:
 - multiple category selection be available for statistical reports.
 - detailed reports of the user's own complaints be generated weekly.
 - transient crew report be issued monthly.
 - most special reports be generated within 2 working days of the day of the request.
 - county and other user group reports be generated monthly.

ALTERNATIVE THREE - INSTALL AN EXISTING AUTOMATED SYSTEM

The only working consumer complaint system in the country is operated by the State of Wisconsin. Their system has been evaluated for use in California on the basis of the system and user documentation provided by Wisconsin, as well as on the comments and recommendations made by the Wisconsin program staff.

Although much of the data to be collected in California is similar to that collected in Wisconsin, there are several significant omissions in the Wisconsin system.

One of the primary needs of California users is the matching of "Same Respondent" complaints located in various agencies throughout the state. Also, information on respondents' aliases and related business names is essential. This information is not captured by the Wisconsin system. Another requirement of the prospective users is to be able to obtain follow-up information about a complaint. In other words, actions taking place after the complaint is originally entered into the system should be reflected in the data. Examples of future action include investigations conducted, court cases filed, court and disciplinary actions taken, etc. Wisconsin has only very minimal follow-up capability, which will not satisfy these requirements.

This alternative would be viable if it only required picking up an existing automated system and installing it with minor modifications, such as heading changes, county-name table changes, etc. Including matching, cross-referencing and follow-up information would require extensive modifications to the Wisconsin system, and many of their programs could not be used.

Since this alternative cannot meet the major objectives or performance criteria of the program, it is unacceptable to the Department of Consumer Affairs and to the Steering Committee, and has been eliminated from further consideration.

Advantages:

1. The cost to install an existing system is less than writing a new one.
2. Some of the desired reports can be produced.

Disadvantages:

1. The Wisconsin System does not satisfy the recommendations of the Steering Committee that:
 - . Detailed reports of the user's own complaints be matched with all

other complaints in the system dealing with the same respondent or any of its aliases.

- Complete information about a complaint (including follow-up data) be available on the complaint file.
2. Data to be collected would have to conform to that collected by Wisconsin, and would not satisfy the needs of California users and consumers.
3. Reports generated would be restricted to those already designed by Wisconsin, although a few new ones might be added.
4. The system would be difficult and expensive to modify for future expansion.

ALTERNATIVE FOUR - DEVELOP A NEW AUTOMATED SYSTEM

This alternative addresses the development of a new system specifically tailored for the needs of California, utilizing, where possible, software developed by Wisconsin. With this approach, the requirements of California users will be met without providing additional unwanted material at extra cost. The system can be designed to be easily expandible in areas where expansion is planned to occur. The long range costs of system modifications will be minimized as the documentation will be current and the system will be familiar to Department of Consumer Affairs staff.

The new system will be patterned using Wisconsin's approach. Each user will submit complaints to the program office in Sacramento. They will be processed and the complaint file will be updated daily in order to respond to telephone inquiries. Weekly and monthly reports will be distributed to each user showing their own complaints, matched with all other related complaints on the file. Monthly and quarterly statistical reports by user, user group and entire file will be distributed. Special reports and one-time file inquiries will be available on request.

The proposed system is described in Appendix E. It is broken into three subsystems which are relatively independent:

- the complaint data maintenance and reporting system
- the name cross-reference data system
- the transient crew data system

The intent is to keep the costs of both initial programming and regular processing to a minimum. For this reason we plan to modify four of the Wisconsin programs rather than write new programs, unless this proves unrealistic. Once the California data categories are finalized, the decision can be made whether or not to use these programs.

This system will generate those reports most valuable to California users, and will be very flexible. Statistics can be generated many ways. All information will be available within each user's own office, thus eliminating the need for frequent calls to Sacramento. This alternative will satisfy all of the needs addressed in this report, as well as meet all of the performance criteria previously identified.

Advantages:

1. The system is tailored for the needs of California users.
 - a. The data is exactly what is necessary.
 - b. The input of complaint data to the system is simple and short, in order to minimize the impact on the workload of user agencies.
 - c. The reports generated will be those most useful to California users.
2. Future modifications will be simplified for the following reasons:
 - a. Programs will be designed to be expandable in certain areas.
 - b. Complete documentation will be available.
 - c. Department of Consumer Affairs staff will be very familiar with the system.

3. This alternative meets all of the recommendations of the Cooperative Consumer Protection Program Steering Committee, including the following:
 - The complaint file will be updated daily from the data submitted by the users.
 - Weekly detailed reports of the users' own complaints will be distributed.
 - Each complaint will be matched to all other complaints in the system dealing with the same respondent and cross-referenced to any aliases.
 - Monthly and quarterly statistical reports will be distributed, showing activity within California for each user, user group, and statewide.
 - Complete information about a complaint will be available, including action taken after the complaint originally entered the system.
 - The system has the ability to generate special reports and answer one-time requests.
4. Communication between complaint handling agencies will be facilitated through the use of the reports generated by the system.
5. The Department will fulfill its mandated functions in the area of white collar crime.
6. All of the Performance Criteria identified can be met.
7. Computer-generated statistics have built-in bona fides.

Disadvantages:

1. A computerized system takes longer to implement than a manual system.
2. Full dependence on a computerized system limits timely responses if any of the component parts break down, i.e., computer, microfiche processor, copy machine, etc., or if higher priorities exist at the chosen data center.



TABLE 1: FIRST YEAR COST COMPARISON

(Note: Alternative Two consists of 3 months development and 9 months production, Alternative Four is 5 months development and 7 months production)

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
I. Personnel				
A. Dedicated				
1. Project Director @ 5%	-	1,534	-	1,534
2. Program Manager (S.S.M. I)	-	0	1	20,928
3. Program Manager (S.S.M. III)	1	22,992	-	0
4. Administrative Assistant	0	0	-	0
5. Staff Services Analyst (12 mo. 1-A, 9 mo. 1-A, 2-B)	4	37,353	-	0
6. Junior Staff Analyst	-	0	1	11,028
7. Senior Stenographer	1	9,876	-	0
8. Statistical Clerk (9 mos.)	4	28,944	-	0
9. Senior Clerk	2	19,296	-	0
10. Stenographer	-	0	1	9,444
11. Clerk - Typist (9 mos.)	3	18,225	-	0
12. Clerk II (9 mos.)	12	72,900	-	0
13. Data Processing Manager I @ 10%	-	0	-	2,299
14. Associate Programmer Analyst	-	0	1	19,068
15. Data Processing Technician	-	0	1	12,576
16. Temporary Help	-	0	.8	6,750
17. Personnel Benefits (24.5% of salaries)	27	51,724	5.8	20,488
B. Contract (Development Only)				
1. Programmer-dedicated for 7 months		0		15,151
2. Programmer-1840 hours @ \$18.50		0		34,040
Sub-Total - Personnel		262,844		153,306
II. Operating Expenses and Equipment				
A. Travel		12,000		12,000
B. General Operating Expense		129,512		36,900
C. Equipment - General		28,000		1,600

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
D. Microfiche Readers, Printers		0		14,000
Sub-Total - Operating Expense		169,512		64,500
III. Computer Related Costs				
A. Development		0		32,487
B. Production		0		40,433
C. Microfiche		0		536
Sub-Total - Computer		0		73,456
TOTAL First Year Costs		432,356		291,262

TABLE 2: SECOND YEAR COST COMPARISON

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
I. Personnel				
A. Project Director	-	1,687	-	1,687
B. Program Manager (S.S.M. I)	-	0	1	23,021
C. Program Manager (S.S.M. III)	1	25,291	-	0
D. Administrative Assistant	1	19,100	-	0
E. Staff Services Analyst	5	63,980	-	0
F. Junior Staff Analyst	-	0	1	12,131
G. Senior Stenographer	1	10,864	-	0
H. Statistical Clerk	5	53,064	-	0
I. Senior Clerk	2	21,226	-	0
J. Stenographer	-	0	1	10,388
K. Clerk-Typist	3	26,730	-	0
L. Clerk II	18	160,280	-	0
M. Data Processing Manager I	-	0	-	2,529
N. Associate Programmer Analyst	-	0	1	20,974
O. Data Processing Technician	-	0	1	13,834
P. Temporary Help	-	0	.8	7,425
Q. Personnel Benefits		93,669		22,537
Sub-Total - Personnel	36	475,991	5.8	114,527
II. Operating Expenses and Equipment				
A. Travel		13,200		13,200
B. General Operating Expense		175,067		40,040
C. Equipment - General		7,000		1,760
D. Microfiche Readers, Printers		0		7,040
Sub-Total - Operating Expenses		195,267		62,040
III. Computer Related Costs				
A. Production		0		107,896
B. Microfiche		0		1,066
Sub-Total - Computer		0		108,962
TOTAL		671,258		285,529

TABLE 3: THIRD YEAR COST COMPARISON

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
I. Personnel				
A. Project Director	-	1,841	-	1,841
B. Program Manager (S.S.M. I)	-	0	1	25,114
C. Program Manager (S.S.M. III)	1	27,590	-	0
D. Administrative Assistant	1	20,837	-	0
E. Staff Services Analyst	6	83,030	-	0
F. Junior Staff Analyst	-	0	1	13,233
G. Senior Stenographer	1	11,851	-	0
H. Statistical Clerk	6	69,465	-	0
I. Senior Clerk	3	34,733	-	0
J. Stenographer	-	0	1	11,332
K. Clerk-Typist	3	29,160	-	0
L. Clerk II	22	213,840	-	0
M. Data Processing Manager I	-	0	-	2,759
N. Associate Programmer Analyst	-	0	1	22,881
O. Data Processing Technician	-	0	1	15,091
P. Temporary Help	-	0	.8	8,100
Q. Personnel Benefits		120,625		24,586
Sub-Total - Personnel	43	612,972	5.8	124,938
II. Operating Expenses and Equipment				
A. Travel		14,400		14,400
B. General Operating Expense		226,550		49,080
C. Equipment - General		7,000		1,920
D. Microfiche Readers, Printers		0		7,680
Sub-Total - Operating Expenses		247,950		73,080
III. Computer Related Costs				
A. Production		0		142,357
B. Microfiche		0		1,744
Sub-Total - Computer		0		144,101
TOTAL		860,922		342,119

TABLE 4: FOURTH YEAR COST COMPARISON

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
I. Personnel				
A. Project Director	-	1,994	-	1,994
B. Program Manager (S.S.M. I)	-	0	1	27,206
C. Program Manager (S.S.M. III)	1	29,890	-	0
D. Administrative Assistant	1	22,573	-	0
E. Staff Services Analyst	6	89,950	-	0
F. Junior Staff Analyst	-	0	2	28,674
G. Senior Stenographer	1	12,839	-	0
H. Statistical Clerk	7	87,797	-	0
I. Senior Clerk	3	37,627	-	0
J. Stenographer	-	0	1	12,277
K. Clerk-Typist	4	42,120	-	0
L. Clerk II	28	294,840	-	0
M. Data Processing Manager I	-	0	-	2,988
N. Associate Programmer Analyst	-	0	1	24,788
O. Data Processing Technician	-	0	1	16,349
P. Temporary Help	-	0	.8	8,775
Q. Personnel Benefits		151,809		30,148
Sub-Total - Personnel	51	771,439	6.8	155,199
II. Operating Expenses and Equipment				
A. Travel		15,600		15,600
B. General Operating Expense		283,962		59,020
C. Equipment - General		15,000		3,380
D. Microfiche Readers, Printers		0		8,320
Sub-Total - Operating Expenses		314,562		86,320
III. Computer Related Costs				
A. Production		0		181,414
B. Microfiche		0		2,057
Sub-Total - Computer		0		183,471
TOTAL		1,086,001		422,990

TABLE 5: FIFTH YEAR COST COMPARISON

Description	Alternative 2		Alternative 4	
	Staff	Amount	Staff	Amount
I. Personnel				
A. Project Director	-	2,148	-	2,148
B. Program Manager (S.S.M. I)	-	0	1	29,299
C. Program Manager (S.S.M. III)	1	32,189	-	0
D. Administrative Assistant	1	24,309	-	0
E. Staff Services Analyst	7	112,308	-	0
F. Junior Staff Analyst	-	0	2	30,879
G. Senior Stenographer	1	13,826	-	0
H. Statistical Clerk	8	108,057	-	0
I. Senior Clerk	3	40,522	-	0
J. Stenographer	-	0	1	13,221
K. Clerk-Typist	4	45,360	-	0
L. Clerk II	33	374,220	-	0
M. Data Processing Manager I	-	0	-	3,218
N. Associate Programmer Analyst	-	0	1	26,695
O. Data Processing Technician	-	0	1	17,607
P. Temporary Help	-	0	.8	9,450
Q. Personnel Benefits		184,470		32,466
Sub-Total - Personnel	58	937,409	6.8	164,983
II. Operating Expenses and Equipment				
A. Travel		16,800		16,800
B. General Operating Expense		347,301		69,860
C. Equipment - General		7,000		3,640
D. Microfiche Readers, Printers		0		8,960
Sub-Total - Operating Expenses		371,101		99,260
III. Computer Related Costs				
A. Production		0		226,694
B. Microfiche		0		2,411
Sub-Total - Computer		0		229,105
TOTAL		1,308,510		493,348

TABLE 6: COMPLAINT VOLUME AND PERSONNEL REQUIREMENT PROJECTIONS

		1	2	3	4	5	YEARLY SALARY 1976/77 \$
I	# Complaints	110,000	140,000	170,000	200,000	230,000	
II	Percentage Increase in # Complaints		27%	21%	17%	15%	
III	# Users	17	27	37	47	57	
IV	# People (not including development)						
	A. Manual System						
	1. Project Director (5%)	-	-	-	-	-	1,534
	2. Program Manager (S.S.M. III)	1	1	1	1	1	22,992
	3. Administrative Assistant	0	1	1	1	1	17,364
	4. Staff Services Analyst	2A 2B	2A 3B	3A 3B	3A 3B	4A 3B	11,028 12,036
	5. Senior Stenographer	1	1	1	1	1	9,876
	6. Statistical Clerk	4	5	6	7	8	9,648
	7. Senior Clerk	2	2	3	3	3	9,648
	8. Clerk Typist	3	3	3	4	4	8,100
	9. Clerk II	12	18	22	28	33	8,100
	B. Automated System						
	1. Project Director (5%)	-	-	-	-	-	1,534
	2. Program Manager (S.S.M. I)	1	1	1	1	1	20,928
	3. Jr. Staff Analyst	1	1	1	2	2	11,028
	4. Stenographer	1	1	1	1	1	9,444
	5. Clerk II (10 man-months)	.8	.8	.8	.8	.8	8,100
	6. Data Processing Manager I (10%)	-	-	-	-	-	2,299
	7. Associate Programmer Analyst	1	1	1	1	1	19,068
	8. Data Processing Tech.	1	1	1	1	1	12,576

V. Additional Assumptions

A. Inflation - Assume 10% per year inflation from 1976/77 dollars.

B. Manual System

1. Each new increment of 3,958 complaints beyond first year = 1 new position
2. Each new complaint beyond first year = \$.988 increase in operating expense

C. Automated System

1. Each new complaint beyond first year = \$.15 increase in operating expense

Cost Benefit
Analysis

COST BENEFIT ANALYSIS

As evidenced by the costs indicated in the Cost Comparison, Tables 1 - 5, the alternative solution with the least cost is to establish a new, automated system.

The need for action in the area of consumer fraud has been demonstrated in the Problem Definition Section of this study. There currently is no statewide complaint handling system to satisfy this need. Continuing the status quo (no statewide system) has been addressed in Alternative One and rejected, as it would allow the present unmanageable levels of consumer fraud to increase. As a system must be established in order for the Department and law enforcement agencies to respond to their mandated functions, a manual system (Alternative Two) will be used as the base from which to compare the costs of the other alternative.

The first year development and operational costs of the manual system amount to \$452,356. The first year costs of the automated system (Alternative Four) are \$291,262.

Second year operational costs will be \$671,258 for the manual system and \$285,529 for the new automated system. Third year costs will be \$860,922 for the manual system and \$342,119 for the automated system. Fourth year costs will be \$1,086,001 for the manual system and \$422,990 for the automated system. Fifth year costs will be \$1,308,510 for the manual system and \$493,348 for the automated system.

Implementing the new automated system (Alternative Four) at Franchise Tax Board would result in first year savings to the State of \$141,094. Second year savings would be \$385,729. Third year savings would be

\$518,803. Fourth year savings would be \$663,011. Fifth year savings would be \$815,162, as compared to the cost of implementing the manual system.

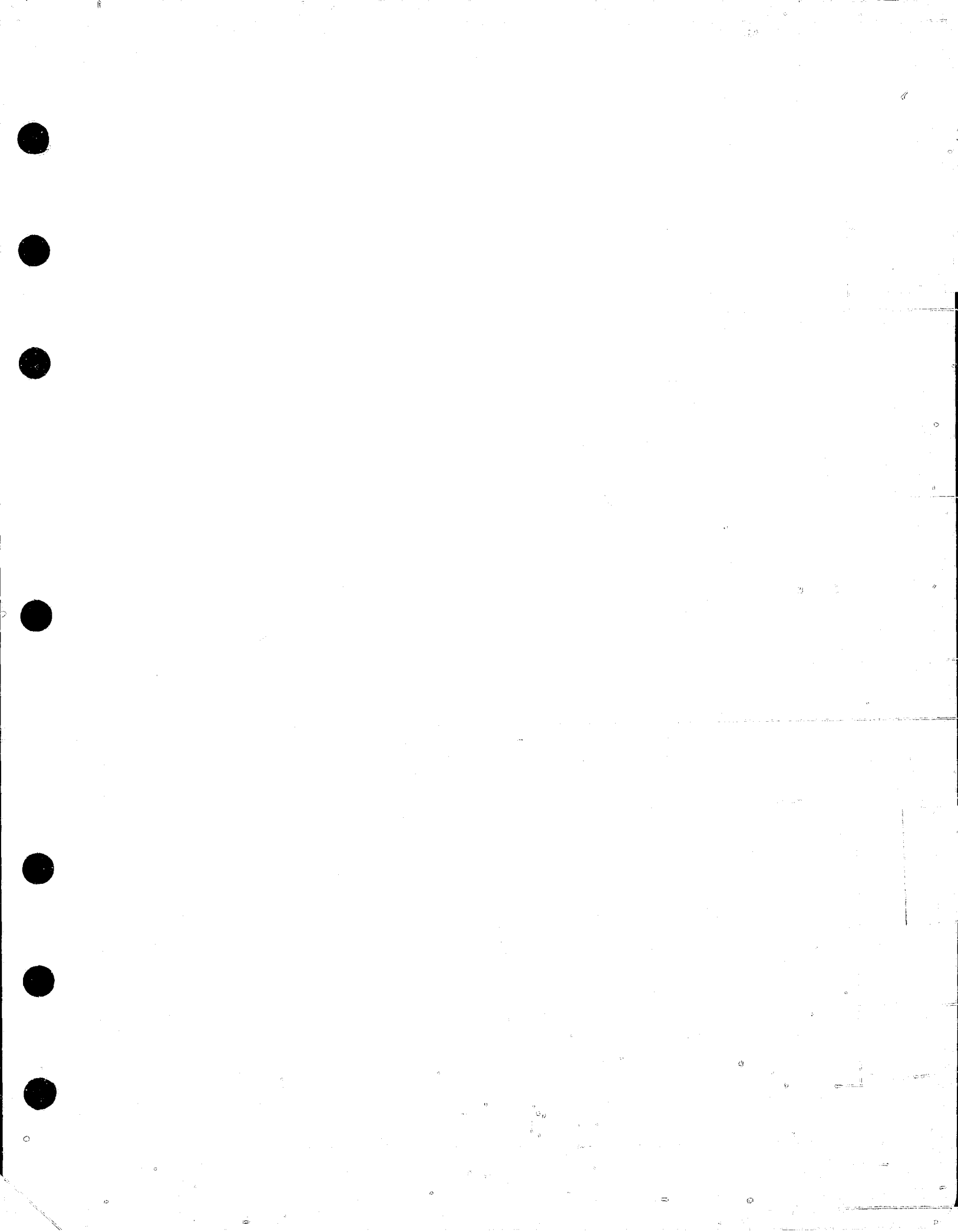
Total savings to the State over the first five years of operation of this program would amount to \$2,523,799.

As well as being much less expensive than a manual system, the automated system will meet all of the needs that the manual system cannot. Specifically, the automated system will:

- provide users with detailed reports of their own cases.
- generate special reports and answer one-time inquiries in a matter of days, not weeks or months.
- reduce the manual statistic gathering in each user agency by providing regular reports.
- provide accurate and reliable complaint statistics.

The following results will be obtained easier, at less cost and more effectively by using an automated system:

- Improvement of consumer/merchant relationships.
- Allocation of investigatory and prosecutory resources to the most critical problems.
- Reduction of fraudulent business practices before further crimes are committed through the issuance of timely alerts.
- Improvement in statewide tracking of respondents by establishing a name cross-reference listing.
- Increases in number and dollar amounts of fines and restitutions recovered by agencies and consumers.
- Improvement in communication between complaint handling agencies.
- Increased responsiveness by the Department of Consumer Affairs and law enforcement agencies in meeting their mandate to protect California consumers.



COOPERATIVE CONSUMER PROTECTION PROGRAM

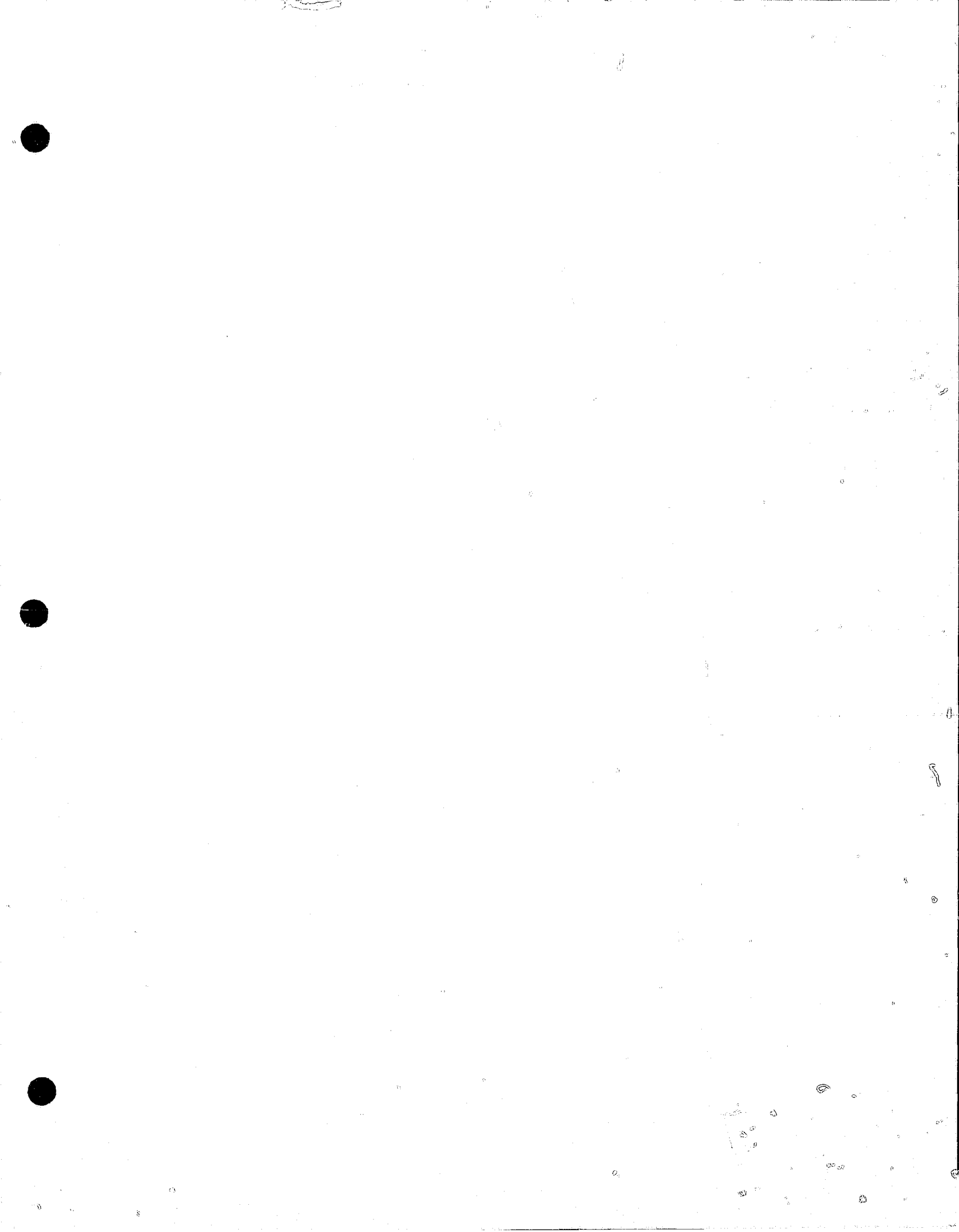
MILESTONE REPORTING CHART

Assumes Feasibility Study Approval and Start-up by May 1, 1977

	<u>MILESTONE</u>	<u>DUE</u>	<u>ACTUAL</u>
1.	Finalize data to be captured and report formats Responsibility - EDP, Don Hinkle Sign Off - CCPP, June Lomax CCPP, Mariale Neighbours	5/20/77	
2.	Finalize system design Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton CCPP, June Lomax	5/27/77	
3.	Evaluate Wisconsin programs for use in this system Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton CCPP, June Lomax	5/27/77	
4.	Critical design review Responsibility - EDP, Fred Milton EDP, Don Hinkle CCPP, June Lomax Sign Off - DOF, Don Leachman	6/10/77	
5.	Design data files Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	6/3/77	
6.	Write specifications for complaint edit programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	7/8/77	
7.	Write specifications for complaint update programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	7/24/77	
8.	Write complaint edit and update programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	8/5/77	
9.	Write specifications for name cross-reference update and report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	7/29/77	

	<u>MILESTONE</u>	<u>DUE</u>	<u>ACTUAL</u>
10.	Write name cross-reference update and report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	9/16/77	
11.	Write specifications for complaint report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	8/5/77	
12.	Write specifications for statistical report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	8/5/77	
13.	Write first group of report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	9/23/77	
14.	Prepare data entry procedures Responsibility - EDP, Don Hinkle Sign Off - FTB, Mike Childress EDP, Fred Milton	7/8/77	
15.	User training for capture of history Responsibility - CCPP, June Lomax Sign Off - CCPP, Marialee Neighbours	7/15/77	
16.	Collection and preliminary edit of history data Responsibility - CCPP, June Lomax Sign Off - EDP, Fred Milton	9/23/77	
17.	Create program test data Responsibility - CCPP, June Lomax EDP, Don Hinkle Sign Off - EDP, Fred Milton	8/5/77	
18.	Test programs Responsibility - EDP, Don Hinkle Sign Off - CCPP, June Lomax EDP, Fred Milton	9/23/77	
19.	Create system test data Responsibility - CCPP, June Lomax EDP, Don Hinkle Sign Off - EDP, Fred Milton	8/5/77	

	<u>MILESTONE</u>	<u>DUE</u>	<u>ACTUAL</u>
20.	Test system Responsibility - EDP, Don Hinkle Sign Off - CCPP, June Lomax EDP, Fred Milton	9/23/77	
21.	Write user instructions Responsibility - CCPP, June Lomax EDP, Don Hinkle Sign Off - CCPP, Marialee Neighbours EDP, Fred Milton	9/16/77	
22.	Write specifications for second group of report programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	10/14/77	
23.	Write and test second group of report programs Responsibility - EDP, Don Hinkle Sign Off - CCPP, June Lomax EDP, Fred Milton	11/11/77	
24.	Document programs Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	11/11/77	
25.	Document system Responsibility - EDP, Don Hinkle Sign Off - EDP, Fred Milton	11/11/77	
26.	Build initial history file Responsibility - EDP, Don Hinkle CCPP, June Lomax Sign Off - EDP, Fred Milton	9/23/77	
27.	Implement system Responsibility - EDP, Don Hinkle Sign Off - CCPP, June Lomax EDP, Fred Milton	10/7/77	
28.	Evaluate pilot Responsibility - CCPP, June Lomax EDP, Fred Milton Sign Off - CCPP, Marialee Neighbours	4/7/78	
29.	Add five (5) new users Responsibility - CCPP, June Lomax Sign Off - CCPP, Marialee Neighbours	10/7/78	
30.	Evaluate system Responsibility - CCPP, June Lomax EDP, Fred Milton Sign Off - CCPP, Marialee Neighbours	10/7/78	



DEPARTMENT OF CONSUMER AFFAIRS
Cooperative Consumer Protection Program

RESPONSIBILITY CODES	
1	Dept. of Cons. Affs.
2	Dept. Sec. Services
3	
4	
5	

--LEGEND--
 _____ Schedule
 _____ Actual
 --- Start --- Finish
 ~~~~~ Revised Schedule  
 \*\*\*\*\* Schedule Modified

Project Title: Complaint Data System  
 Project Leader: F. Milton Page 1 of 2 Date: 3/19/77  
 Prepared by: H. Baldwin Approved by: \_\_\_\_\_ Revised: \_\_\_\_\_

Project Number: \_\_\_\_\_

| TASK NO | TASK/ACTIVITY DESCRIPTION                                   | RESPONSIBILITY |   |   |   |   |   |   |   |   |    |    |    |        | STATUS | PER CENT COM PLETE |    |  |
|---------|-------------------------------------------------------------|----------------|---|---|---|---|---|---|---|---|----|----|----|--------|--------|--------------------|----|--|
|         |                                                             | 1              | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | as of: |        |                    |    |  |
| 1       | Review data to be captured and report format.               | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 2       | Finalize system design                                      | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 3       | write Wisconsin programs for use in this system             | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 4       | Design data files                                           | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 5       | write specifications for complaint edit programs            | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 6       | write specifications for complaint update program           | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 7       | Write complaint edit and update programs                    | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 8       | Write specs. for Home Cross-Ref. update and report programs | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 9       | write Home Cross-ref. update and report programs            | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 10      | write specs. for complaint report programs                  | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 11      | write specs. for statistical report programs                | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 12      | write first group of report programs                        | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 13      | Prepare data entry procedures as training for capture of    | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 14      | Collection and preliminary entry of history data            | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 15      | Create program test data                                    | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 16      | Test programs                                               | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 17      | Create system test data                                     | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 18      | Test system                                                 | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 19      | Write user instructions                                     | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 20      | write specs. for second group of report programs (1st half) | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 21      | write specs. for second group of report programs (2nd half) | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 22      | write out first second group of report programs             | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 23      | Document programs                                           | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |
| 24      | Document system                                             | X              |   |   |   |   |   |   |   |   |    |    |    |        |        |                    | S: |  |

PROJECT INFORMATION  
For Report Period Ending:

Start Date: \_\_\_\_\_  
 Completion Date: \_\_\_\_\_  
 Task(s) Started: \_\_\_\_\_  
 Continuing Tasks: \_\_\_\_\_  
 Tasks Completed: \_\_\_\_\_  
 Start Next Week: \_\_\_\_\_  
 Complete Next Week: \_\_\_\_\_  
 CURRENT IS



Authorizations  
Required



#### AUTHORIZATIONS REQUIRED

Approval by the State Data Processing Management Office and the Intergovernmental Board on Electronic Data Processing as described in the State Administrative Manual, Section 4800.

#### REQUIRED STATUTORY OR ADMINISTRATIVE CHANGES

None.

#### IMPACT ON EXISTING OPERATIONS

Widespread use of this system will increase the quality and quantity of consumer complaint handling statewide. It will decrease duplication of effort, and thereby release time for prosecutors to work on new investigations. These savings will be realized within state government in the Office of the Attorney General and various Departments' Regulatory Boards and Bureaus, and in local governmental agencies throughout the state. Reduction in duplication of effort and in manual recordkeeping will offset the staff time required to input data.

#### SOURCE OF FUNDS

U.S. Department of Justice Law Enforcement Assistance Administration funds have been made available under the Crime Control Act of 1973, and are administered by the Office of Criminal Justice Planning. The three-year grant proposal totaling \$725,000 commenced August 1, 1976. To date, funds have been approved for the first and second years. After the end of the three-year grant period (beginning 8/1/79), the options for funding this program are as follows:

- . continued federal funding.
- . partial funding from state funds and partial funding from user agencies.
- . complete state funding.
- . complete user funding.

CONFIDENTIALITY, PRIVACY, AND SECURITY

The system, throughout the term of the O.C.J.P. Grant, must conform to the Federal Crime Control Act of 1973 and the Federal Freedom of Information Act. These Acts supercede all State laws; however, the system is being designed to conform also to California laws (including the Governor's Executive Order #B-22-76) due to the possibility of long-term State or user funding after the three-year development period.

There are currently two items included in the data to be collected which are exempt from public disclosure. They are 1) "Assurance of Voluntary Compliance" and 2) "Under Active Investigation". Due to the importance of these items to the users as informational tools, and to the adverse effects premature disclosure to consumers, merchants, etc. could have on the outcome of investigations, a policy has been established to preclude the participation of non-governmental users. This policy will remain in effect unless or until we can design a method to exclude these items on non-public output reports. This policy is in conformance with the rules and regulations promulgated by the Law Enforcement Assistance Administration in Washington, D.C.

The burden of disclosure for the other data being stored will continue to rest with the users of the system. Since this system represents a complaint gathering function rather than a complaint handling function, the Department's Legal Counsel has advised us that requests for information can be referred to the applicable user(s).

Every user of the system will be required to abide by data security measures established by the Department of Consumer Affairs. The following measures apply to both users and the program office.

- . All files and reports pertaining to this system will be kept locked and secure when not in use.
- . Files in use will be accessed by authorized personnel only.

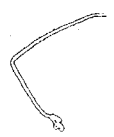
- Files will be maintained in an area with controlled access.
- Envelopes containing reports or documents will be stamped "confidential" for mailing.

Users will be monitored to assure their compliance with these security measures.

In order to prevent unauthorized access to the database, automated security measures will be used. In addition, the location of specific data on the database will be known only to the data processing personnel assigned to the project. To provide for the physical security of the data, a duplicate copy of the data will be made weekly and stored in an off-site vault. All contractors of the Department will be required to abide by security regulations established by the Department. These arrangements will be made within the contractual agreement between the contractor and Consumer Affairs.

#### USE OF COMPUTER OUTPUT MICROFILM

The planned approach of this system makes use of C.O.M. The weekly/monthly reports of each user's own cases and the five-or-more report will be distributed on microfiche. Readers and reader/printers have been budgeted for in the approved grant.

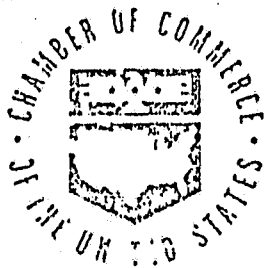


APPENDIX A

U.S. Chamber of Commerce.  
Handbook on White Collar Crime

Index of items particularly relevant to the need for a  
statewide information-sharing system.

1. Pages 4 - 9, Financial and Other Consequences
2. Pages 10 - 11, An Inadequate Response
3. Pages 25 - 33, Consumer Fraud, Illegal Competition,  
Deceptive Practices



DEPARTMENT OF COMMERCE OF THE UNITED STATES  
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Foreword

In a publication on white-collar crime issued in 1972 by the U.S. Attorney for the Southern District of New York, a clear call for action was made to the business and professional community:

"The American economy depends on trust and good faith. Its future health and the moral climate of the nation depend on the attitudes of honest businessmen toward those who violate standards of conduct. Prompt and effective steps can do much to reduce white-collar crime. Leaving it to others and turning one's back will only encourage its spread."

For its part the National Chamber is not about to turn its back on the problem and has no intention of leaving the job of combating white-collar offenses solely to others. As a concrete expression of this intention, these pages outline a general strategy as well as specific measures by which those in business and the professions can take "prompt and effective steps" against white-collar crime.

This Handbook is published because of our conviction that the vast majority of men and women in business and the professions are ethical, well-intentioned, and desirous of doing business through conduct that is beyond reproach. Without such a majority, the Handbook would be an exercise in futility, because the recommendations herein will not be effective unless there are community leaders with an understanding of how to implement them.

Many have cooperated in the preparation of this publication. We are particularly grateful to the National District Attorneys Association, its president, and the participants in its innovative Economic Crime Project. The Project is initiating promising programs in many areas covered by these pages and is funded by the Law Enforcement Assistance Administration, which has also supported other efforts directed against white-collar criminals.

White-collar crime is, indeed, everyone's problem. It can be everyone's loss. To combat it, the Handbook presents a positive, self-help approach that seeks to mobilize the business and professional community as the first line of defense. Such an approach can be particularly effective when dovetailed with the efforts of law enforcement. Hopefully, these pages indicate how this can be accomplished to the benefit of all concerned.

Arch N. Booth  
Executive Vice President  
Chamber of Commerce of the United States

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APPENDIX 1 / Sources of Assistance ..... Inside back cover



## How to use the handbook

Scrawled across an official poster warning businessmen and government employees that bribery is a crime are the added words, "It's only a crime when you get caught." This too-prevalent attitude, among many other contributing factors, helps explain why white-collar crime is regarded by many law enforcement officials as the fastest growing sector of crime.

This is not to imply that most of those in business, industry, and the professions are unethical or dishonest. The opposite is true, although too many are "sharp," blatantly unethical, or just plain crooked. But more is required than a preponderance of honest men and women; they must take positive action, not sit passively on the sidelines. Unfortunately, honest executives and professionals are often asleep at the switch. How else can one explain this statement by a prosecutor:

"Let there be no mistake about it, there is extensive crime in the business world. Our office currently is prosecuting scores of cases involving the payment of bribes, securities abuses, tax frauds, and numerous other violations. Virtually every single one of these cases was developed without any cooperation from the business community. In fact, most of these cases came about because of a look-the-other-way attitude by businessmen who could have prevented the crimes from ever happening in the first place."

The central purpose of this publication is to indicate how those in business, industry, and the professions can help prevent such crimes "from ever happening in the first place." These pages are not "for show" but for follow-up action.

To facilitate its usage as an action-oriented document, the *Handbook* is purposely compact and condenses into a few chapters (1) salient points that emerged during the course of dozens of coast-to-coast interviews with those in business, the professions, and law enforcement and (2) major findings, recommendations, and observations contained in several hundred previously published articles, reports, hearings, and books.

Nonetheless, the approaches and recommendations outlined herein to combat white-collar crime do not pretend to be all-embracing. Rather, they are important illustrations of the *type of thinking* and *kinds of measures* that readers can adopt, build upon, and mold to fit the special needs and problems of their occupations. Worthy of note at this point is that these recommendations are frequently nothing more

than good management per se and can pay off even in the absence of white-collar crime. Methods, procedures, policies, and controls are emphasized—measures whose implementation requires more in the way of willpower than manpower and expensive hardware.

The *Handbook* is organized in a way conducive to sound decision-making. Chapter II defines the overall problem: what is white-collar crime? what are its consequences—financial and otherwise? and why have traditional responses to the problem proved inadequate? With a clearer perception of the broad dimensions and ramifications of white-collar crime, the reader is in a better position to judge for himself the need for, and significance of, the remedial action proposed on subsequent pages.

Chapter III focuses on nine categories of white-collar crime and, for each offense, (1) explores many of the schemes and methods used by perpetrators of the crime, (2) indicates some of the early warning signals frequently associated with it, and (3) refers readers to likely sources of assistance, such as law enforcement agencies and certain private organizations. Also, for each offense the reader is referred to subsequent pages which describe specific countermeasures.

Chapter IV, in addition to highlighting causes of white-collar crime, reviews various policies and preventive procedures that apply to all, or at least to several, of the nine crime categories—in contrast to Chapter V, which presents various sets of tailor-made countermeasures, each set keyed to a specific white-collar offense. The final chapter supplies examples of how white-collar crime can be, and is being, combated through collective action by business.

To illustrate how the reader might use this publication, let us assume he is desirous of shoring up his company's defenses against embezzlement. Upon locating the discussion of embezzlement in Chapter III, he notes typical methods by which the crime is executed and determines the likelihood of whether such techniques could be successfully employed against his business, given existing controls; he determines if any of the listed tip-offs commonly associated with embezzlement are present; he is referred to subsequent pages where countermeasures are outlined and decides whether his procedures should be tightened from either a prevention or detection standpoint; finally, he is advised of sources of law enforcement assistance.

## The problem and its impact

Too few businesses and professions are squarely facing the problem of white-collar crime. This is also true of many law enforcement agencies, although heightened attention to such offenses seems to be a rapidly developing trend. A principal reason why white-collar offenses are often handled in an overly delicate manner is an insufficient understanding of what white-collar crime is, what its consequences are, and why the traditional response to the problem is inappropriate.

### What is white-collar crime?

The definition of "white-collar crime" is not purely an academic matter but, as noted later, has a very significant bearing on how best to combat the offense. White-collar crimes are illegal acts characterized by guile, deceit, and concealment—and are not dependent upon the application of physical force or violence or threats thereof. They may be committed by individuals acting independently or by those who are part of a well-planned conspiracy. The objective may be to obtain money, property, or services; to avoid the payment or loss of money, property, or services; or to secure business or personal advantage.\*

By describing white-collar crime as "illegal acts," this definition avoids the implication that only criminal proceedings and sanctions should be directed at such offenses. As noted later, civil proceedings and remedies can be equally, if not more, effective.

And by focusing on the nature of the violation, rather than on the nature of the violator, this definition of white-collar crime is considerably more encompassing than the traditional one, which tends to concentrate exclusively on top management and "crime in the executive suite." As one observer comments, "White-collar crime is democratic. It can be committed by a bank teller or the head of his institution. . . . The character of white-collar crime must be found in its *modi operandi* and its objectives (not) in the nature of the offenders."

Looked at in this light, embezzlement of \$100,000 by a "white-collar" vice president who manipulated accounts payable records is not substantively different from the pilferage of \$100,000 worth of merchandise by a "blue-collar" warehouse clerk who tried to cover up by falsifying

\* The concept of white-collar crime described here is based on, and closely parallels, the definition in *The Nature, Impact and Prosecution of White-Collar Crime*, written by Herbert Edelbertz for the Law Enforcement Assistance Administration, Department of Justice.

inventory records or engaging in other forms of concealment. The same can be said about the offense committed by the housewife who fraudulently tries to use someone else's credit card—or about the young "phone phreak" who is guilty of toll fraud by utilizing a "blue box" in a phone booth to bypass the telephone company's billing mechanism while he places a \$1,000 around-the-world call to the adjoining booth.

Obviously, what this is leading up to is not justification of white-collar crime at the executive level on the grounds that others also engage in the same type of offense. Rather, the point is that an eyes-open approach to white-collar crime does not limit its focus to the executive suite but is geared to counteract white-collar illegalities originating from a wide range of sources, within and outside of the organization.

For example, white collar crime can be committed by, and perpetrated against, (1) corporations, partnerships, professional firms, nonprofit organizations, and governmental units and/or (2) their executives, principals, and employees as well as such "outsiders" as customers, clients, suppliers and other organizations or individuals.\* Failure to review and evaluate this range of possibilities is likely to result in countermeasures about as effective as baseball players whose manager has trained them to cover all bases except home plate.

### Financial and other consequences

White-collar crime not only results in an immediate and direct financial impact but also, and even more important, generates nonfinancial and long-term consequences. Careful consideration of these effects will help demonstrate that the response to white-collar illegalities should be considerably more than writing them off as just another cost of doing business.

#### How much does it cost?

Although white-collar crimes, if and when detected, are among the most underreported offenses, a reasonable approximation of their economic impact is possible. One way to assess the financial consequences is to reflect upon the implications of the following:

1. The yearly cost of embezzlement and pilferage reportedly exceeds by several billion dollars the losses sustained throughout the nation from burglary and robbery.
2. Fraud was a major contributing factor in the forced closing of about 100 banks during a 20-year period.
3. An insurance company reported that at least 30 percent of all business failures each year are the result of employee dishonesty.

\* This publication restricts its coverage to those white-collar crimes directed at, or committed by or within, business, industry, and the professions. For example, embezzlement occurring within a union or government agency is outside the scope of the Handbook. But soliciting bribes from business by government employees or union officials—and offering bribes to them by businessmen—are offenses discussed on subsequent pages.

4. The annual bill for all purchases by a state is said to have dropped an estimated 40 percent following exposure and prosecution of businessmen and government officials for bribery and kickbacks.
5. Dishonesty by corporate executives and employees has increased the retail cost of some merchandise by up to 15 percent and, in the case of one company, caused shareholders to suffer a paper loss of \$300-million within just a few days.
6. Restitution in the amount of \$696,000 was obtained by a state for its residents who were victims of a single consumer fraud scheme which operated nationwide.
7. Distribution of untaxed bootleg cigarettes throughout one eastern state during a recent six-year period resulted in a loss of \$384-million in state and local revenue and in a loss of about \$2-billion in gross sales to the legitimate cigarette industry. During the last four months of 1971, over 100 cigarette retailers went out of business because their customers preferred the cut-rate, untaxed cigarettes peddled by competitors. This problem exists; to some extent, in 36 other states.
8. Internal dishonesty, in addition to the adverse effect on profits represented by the amount of the pilferage or embezzlement, may result in costs associated with the loss of one or more trained employees; the training of replacements; higher insurance rates and/or deductibles; reconstruction of destroyed, stolen, or altered records; contamination of other employees who pick up where the apprehended thief left off; and lowered productivity when honest and valued employees feel they are under suspicion.

As for a total dollar figure for those white-collar crimes falling within the scope of the *Handbook* (as noted earlier, some offenses are not covered herein), the "ball-park" figure for the short-term and direct dollar loss is estimated at not less than \$40-billion annually, which excludes the cost to the public and business of price-fixing illegalities and industrial espionage (satisfactory measures of these offenses were not found). The accompanying chart presents more details.

The "not less than \$40-billion" estimate does not pretend to be the result of a rigorous, statistically valid survey and should not be regarded as "the cost of white-collar crime." No one has ever really computed even a reasonably accurate figure. The estimate cited here is based on (1) previous estimates by responsible authorities (even their figures for a given kind of crime may differ by many billions), (2) inferences drawn from reasonably accurate loss ratios, and (3) the evaluation and adjustment of (1) and (2) in the light of research for this *Handbook*.

Our estimate is presented to demonstrate only that the short-term dollar impact (whatever the amount might be) of white-collar crime is enormous, certainly not less than \$40-billion per year.

### THE ANNUAL COST OF SOME WHITE-COLLAR CRIMES\*

(Billions of Dollars)

|                                                                |        |                                     |
|----------------------------------------------------------------|--------|-------------------------------------|
| Bankruptcy Fraud                                               |        | \$ 0.08                             |
| Bribery, Kickbacks, and Payoffs                                |        | 3.00                                |
| Computer-Related Crime                                         |        | 0.10                                |
| Consumer Fraud, Illegal Competition,<br>Deceptive Practices ** |        | 21.00                               |
| Consumer victims:                                              | \$ 5.5 |                                     |
| Business victims:                                              | \$ 3.5 |                                     |
| Government revenue loss:                                       | \$12.0 |                                     |
| Credit Card and Check Fraud                                    |        | 1.10                                |
| Credit Card:                                                   | \$ 0.1 |                                     |
| Check:                                                         | \$ 1.0 |                                     |
| Embezzlement and Pilferage                                     |        | 7.0                                 |
| Embezzlement                                                   |        |                                     |
| (cash, goods, services):                                       | \$ 3.0 |                                     |
| Pilferage:                                                     | \$ 4.0 |                                     |
| Insurance Fraud                                                |        | 2.00                                |
| Insurer victims:                                               | \$ 1.5 |                                     |
| Policyholder victims:                                          | \$ 0.5 |                                     |
| Receiving Stolen Property                                      |        | 3.50                                |
| Securities Thefts and Frauds                                   |        | 4.00                                |
|                                                                |        | <u>TOTAL (billions) \$41.78 ***</u> |

\* The dollar amounts pertain only to that aspect of each listed crime which is directed at, or committed by or within, business, industry, and the professions. These estimates do not include the cost involved in combating white-collar crime.

\*\* Estimates related to price-fixing and industrial espionage are not included. Among the schemes or practices that victimize ethically run businesses are the following: advance fee, counterfeit products, illegal hiring of aliens, sweetheart contracts, etc. The figure for Government revenue loss refers to business-related tax fraud, which has been reported as relatively prevalent among the self-employed (especially in the medical, legal, and accounting professions).

\*\*\* This total is more than the \$40-billion referred to in the text because the listed crime categories are not necessarily mutually exclusive. For example, a portion of the embezzlement figure is also part of the estimate for computer-related crime.

### Other consequences and implications

Although the direct, short-term dollar cost of white-collar crime is of great importance, the long-term and/or nonfinancial consequences are even more serious.

For example, although the commission of white-collar crime is not dependent on violence or force, the *risk, threat, or occurrence of physical injury or psychological trauma* can be a consequence. A task force of a Presidential Commission concluded as follows: "Death or serious injury may result from tainted products merchandised in violation of . . . health laws, or from misconduct by doctors. Building code

violations may cause fire or serious health hazards. Although offenses involving such risks constitute a small proportion of the total amount of white-collar crime, the potential number of victims of such conduct may be very high."

Some forms of white-collar crime contribute to the existence, severity, or profitability of other forms of criminal activity. The same task force noted above said that derelictions by corporations and their managers "tend to erode the moral base of law and provide an opportunity for other kinds of offenders to rationalize their misconduct." As a case in point, the task force cited testimony indicating that one motive for the Watts riot was "retribution on merchants who were guilty of consumer exploitation."

In 1973, an informant told the Senate Subcommittee on Investigations about enormously profitable—and illegal—securities transactions he had conducted for organized crime figures with the knowing and indispensable participation of some members of the securities industry and financial community. The informant provided many examples to drive home his main thesis: ". . . I am trying to show you some highlights of the involvement of organized crime and white-collar crime and their collusion; for the organized crime elements could not function without the help of commercial banks and stock brokers in the United States and their counterparts overseas."

And too many businessmen are supporting and encouraging a variety of crimes against property. The Los Angeles District Attorney, in his 1973 testimony before the Senate Select Committee on Small Business, describes the situation this way:

"The thieves . . . felt completely safe in making an offer to an apparently legitimate store. In our investigations, this aspect has become very clear. Too many legitimate businessmen are willing to buy hot merchandise, if it assures them of a higher profit. . . . It is impossible to believe that businessmen do not know that they are supporting a multimillion-dollar, illegitimate industry. When a businessman buys meat, or liquor, or clothes, or office equipment and pays for it in cash to get a good price—he knows that the merchandise is hot. Yet, fences and ultimately burglars depend on the businessman who is successful enough to put cash out in front for such a deal."

A major long-term impact of white-collar crime is *loss of public confidence* in business, industry, and the professions and *debasing of competition*. Three different surveys, for example, have indicated that public esteem for business, its practices, and its leadership is at an all time low. This prompted the president of one survey organization to comment, "The first [remedial] step is to be sure that business' house is in order."

Consumer fraud, according to one study, has resulted in a "lingering

frustration by market consumers who, although they feel cheated, are convinced that justice is [not an] available mechanism to redress their grievances because the cost and time are too great. The economy suffers likewise because business ethics decline, fraudulent and dishonest tactics are viewed as incidents of doing business, and new entrants to a market offering honest competition are hampered by deceptive practices perpetrated by their competitors."

In addition to debasing competition, insensitivity to ethical practices has, in some instances, *retarded economic growth*. In one state where payoffs to government officials were expected, many companies refused to conduct business there. This led a newspaper to comment editorially, "In the midst of so much talk about changing the 'image' [of the state] and improving the economy through industrial growth, there could be no healthier approach than a clear demonstration on the part of the state's political leadership that it is determined to have decent government."

One of the more frequent aftermaths of lost confidence in business and debasement of competition is *pressure for new legislation or regulations* in the absence of corrective action by the private sector. In connection with securities thefts and fraud, a member of the Senate Permanent Subcommittee on Investigations warned, "If as the result of these hearings the financial community still refuses to take definitive action to clean house, then as a legislator I intend to seek every avenue of redress through the regulatory process to see to it that corrective steps are taken—and taken soon. . . . It is our duty to encourage and to do everything we can to have financial institutions do this on their own. If they won't, we are going to legislate. . . . This is now the second warning we have given . . . and we mean business now."

Of course, all too often business does not take the initiative and the resultant legislation and regulations saddle managers with a far more rigid and cumbersome set of requirements than probably would have been the case if industry had faced the problem squarely and instituted appropriate action itself.

Such legislation is just one illustration of how white-collar crime can result in what one observer describes as "greater inconvenience in effecting purchases and negotiating contracts, and carrying out [what previously had been] simple business transactions because of the awareness of fraud and danger of duplicity." Unfortunately, as a result of such a *breakdown of trust* the innocent often suffer because of the transgressions of the guilty. In one county, for example, the prosecuting attorney has, in effect, banned door-to-door salesmen because of numerous verified abuses. This policy is supported by local merchants who justifiably fear that the unethical tactics of many of these salesmen would undermine public trust in local business and that fraudulent

representations would erode local sales and market share. Ethical companies employing honest door-to-door representatives now have a much harder, if not impossible, row to hoe in that county.

Other business transactions threatened with "greater inconvenience" because of "the awareness of fraud and danger of duplicity" include those which rely on the holder-in-due-course doctrine. If, for example, a finance company purchased an installment contract (and thus the right to collect the installment payments) from a home repair firm which initially negotiated the installment agreement with a homeowner who wanted to spread out his payments for needed roof repairs, the finance company—as a holder in due course—would have the right to collect all remaining installments due from the homeowner even though the roof repairs were never done or improperly done. In oversimplified terms, the holder-in-due-course doctrine can enable the home repair firm to get paid for a fraud by selling the installment agreement to the finance company, and enables the finance company to collect from the homeowner, who is told that any problem or argument he has must be settled between him and the home repair outfit, which would involve costly litigation, if, indeed, the firm could still be located.

The villain is not the holder-in-due-course doctrine. It helps assure the availability of ready sources of financing to many businesses, which in turn are thereby better able to grant credit to their customers. As applied to ethical businesses, the doctrine is a boon to all concerned. But because some firms are using it as a key element in schemes to defraud consumers, more and more legislation and court decisions are tearing down the barrier that hitherto has insulated the finance company from the homeowner's complaints and claims against the home repair firm. The net result is that even ethical and responsible companies are experiencing "greater inconvenience" in effecting hitherto simple business transactions "because of the awareness of fraud and danger of duplicity."

Reflection on the above examples of the less tangible and long-term consequences of white-collar crime leads to two major conclusions:

1. To combat white-collar crime is not merely a matter of ethically operated businesses continuing to operate that way. They must also take steps to weed out the irresponsible within their industry or profession, for the backlash created by illegalities of others is bound to affect even the most scrupulously run enterprise.
2. To face the issue of white-collar crime is to heed the words of a judge who had just tried a particularly significant case involving a white-collar offense: "This is a shocking indictment of a vast section of our economy, for what is really at stake here is the survival of the kind of economy under which America has grown to greatness, the free enterprise system."

## An inadequate response

Despite the emergence of many bright spots indicative of changing attitudes, the following responses to white-collar crime are still much too prevalent: accept it stoically as an unavoidable cost of doing business; rationalize failure to attack industrywide problems on the grounds that this is the job of law enforcement; maintain the view that "if it were wrong, there would be a law against it"; and refuse to admit the problem even though no one has ever looked very hard.

Such a lukewarm set of responses has been motivated, at least in part, by fear that a more active and overt reaction to white-collar crime would result in unfavorable publicity, legislative and regulatory restrictions, numerous law suits, and additional expenses. But all this has occurred despite the low-keyed response and probably has been much more severe, both quantitatively and qualitatively, than what would have resulted if business, industry, and the professions had been viewed by legislators, the public, and the courts as having faced the issue squarely through the implementation of appropriate policies and countermeasures.

Basically, the real question to be settled is whether business (1) wants to bear the cost of subsidizing white-collar crime by treating it with kid gloves or (2) wants to invest in a gloves-off strategy which, although not without cost, promises to earn a much higher return over the long run. The first approach tolerates white-collar crime, places the problem at the doorsteps of law enforcement agencies and legislatures, and abdicates responsibility for self-regulation. The second strategy leads to the development of aggressive policies and procedures that (1) anticipate and combat white-collar crime within any given business; (2) weed out, through collective action, problems common to an industry or profession; and (3) forge cooperative relationships with law enforcement agencies.

For its part, law enforcement is giving every sign of increasing its efforts against white-collar crime. Indicative of *federal policy* is this statement in the *Attorney General's First Annual Report*: "The Federal Government is committed to efforts to protect American consumers and businesses from the ravaging effects of 'white collar crime.'" The FBI, for example, recently announced intensified investigative activity in this area.

Among the *state-level* agencies giving heightened attention to white-collar crime is the Strategic Investigations Bureau of the Florida Department of Law Enforcement. One of the Bureau's objectives is to abort fraud before the full effect of the crime is felt or even before the scheme is put into operation. The emphasis is on prevention, not reaction after the fact. Receiving funds from the Law Enforcement Assistance Administration (LEAA); the Bureau is geared to uncover and probe hints of

fraud, and to allocate the substantial amounts of manpower, money, and time so often required to piece together the elements of suspicious occurrences to determine whether a fraud is indeed planned or in progress, and, if so, how it operates and who the principals and intended victims are.

At the local level, the National District Attorneys Association has undertaken a nationwide demonstration project funded by LEAA and directed by the Economic Crime Project Center in Washington, D. C. The offices of 15 district attorneys are committed to developing the organization and techniques to prosecute economic crimes having a major impact on the public. Priorities include all types of merchandising frauds; auto and major appliance repair swindles; crimes arising from the energy crisis; housing and land development frauds; and health, welfare, and medical frauds. Also, attention is directed at computer-related crime and problems associated with introducing computer-generated data as evidence in court proceedings. A forthcoming manual will document procedures, techniques, and model statutes.

Adding to the interest of investigators and prosecutors in white-collar crime is the realization that investigation of one such offense is often tied to, and can help solve, other crimes. An investigation of a credit card fraud, for example, could lead to the arrest of not only the immediate possessor of the card, but also a pickpocket, burglar, cargo thief, or fence. Arrests in connection with an advance fee swindle (fees are paid for loans that do not materialize) may lead to the discovery that the assets of the "lending company" are really stolen, counterfeit, or bogus securities, which might be traced back to a fence, a dishonest broker's employee, or a number of other criminals or illegal operations. Also, law enforcement officials can be expected to become increasingly attentive to white-collar crime when the benchmark indicative of investigative and prosecutive skill is seen as not so much the successful robbery or murder investigation and prosecution but the arrest and conviction of those involved in intricate and complicated white-collar schemes.

## Common schemes and how to spot them

Although the health of the economy, as well as that of any given business, depends on trust and good faith, this is not to say that potential abusers of those necessary ingredients should be handed a blank check. There is still plenty of room for an injection of constructive skepticism into day-to-day operations. The rising trend of white-collar crime demonstrates that those in business and the professions should subject transactions, representations, and operations to more rigorous cross-examination. Routine acceptance of things at face value is, unfortunately, naive and unprofitable.

But increased vigilance requires that the honest and the ethical acquire a basic awareness of the frauds to which they are exposed. The frequent absence of this knowledge is a "big problem," according to the head of the fraud bureau in a metropolitan district attorney's office. Awareness of fraud possibilities not only facilitates timely anticipation of trouble but also contributes toward the development of effective preventive measures. To help develop such awareness is why basic descriptions of how various frauds operate are included in this chapter. Although this might be criticized as publicizing illegal methods to potential perpetrators, such a possibility is outweighed by the value of informing responsible persons about the problems they face. Actually, the skeletal descriptions of methods will not benefit the professional criminal and are unlikely to contain sufficient details to equip the amateur. If, as someone once wrote, ". . . honesty has no defense against superior cunning," greater knowledge by the honest about the tactics of the cunning is highly desirable.

For each category of white-collar crime described in this chapter illustrative tip-offs, or early warning signals, are listed. Of course, fraud could materialize without advance warning. And, conversely, many tip-offs could surface but be false alarms. Thus the listed danger signs are not infallible but are merely indications that a person or business may be the target of a given fraud and that further investigation might be desirable.

Just as all possible white-collar crimes are not included in this Handbook (nor all the methods by which any given crime could be committed), neither are all possible tip-offs listed. Rather, the objective is

to illustrate the *basic approach and type of thinking* that businessmen and others can and should apply.

Following the description of methods and tip-offs applicable to a given type of fraud, reference is made to subsequent pages where illustrative preventive measures are discussed and where sources of assistance, such as law enforcement agencies, are listed.

### Bankruptcy fraud

Losses due to bankruptcy fraud—also known as planned bankruptcy, scam, and bust-out—are estimated at \$80-million annually. Although this fraud is reportedly not as frequent as it was several years ago, it can easily put smaller firms out of business. When they do occur, scams seem to gross much more than in the past. According to one investigator, he rarely comes across schemes involving less than \$100,000.

What are the methods?

The basic strategy of those behind planned bankruptcies is to purchase merchandise on credit from many suppliers, dispose of the goods for cash, conceal the proceeds, and then claim bankruptcy if and when creditors press for payment (assuming the perpetrators can be found). Those who engineer bankruptcy frauds fall into three categories: (1) those who are members of the organized underworld; (2) those who can be classified as con men; and (3) those heretofore legitimate businessmen who turned to this fraud by rationalizing it as a "last-ditch" means of saving their debt-ridden businesses. Most scams seem to be the work of those in the last two categories.

Those in the first two categories above tend to purchase relatively small quantities of merchandise from each of a large number of suppliers. As a result, no one creditor is apt to be hurt too badly—except for the struggling small business. However, the well-established businessman referred to in the third category above is likely to place large orders with a small number of suppliers. If and when he goes under, several creditors can be dragged along.

A common tactic associated with both organized crime elements and con men is to establish a "company," deposit a moderate sum in a bank account to help establish credit, and perhaps prepare a misleading balance sheet and income statement. Modest orders placed with suppliers are paid for in full. Slowly, orders are increased and payments constitute a smaller percentage of what is due. Finally, larger orders are placed; the goods are sold at bargain rates or concealed; money in the bank account is withdrawn; and the scam operators vanish or explain away the resulting "bankruptcy" by blaming it on a theft, a fire that destroyed the warehouse (on which inflated insurance claims

may be filed), an urge to gamble that consumed all the profits (and insurance proceeds), etc.

Also associated with organized crime and con artists is a second bankruptcy tactic, which involves the formation of a firm with a name almost identical to that of a well-known, reputable, and highly credit-worthy company. In one such case, con men capitalized on this deception—which also involved "branches" (telephone answering services) in three states—by placing orders with 300 concerns throughout the nation for such unrelated merchandise as radios, appliances, furniture, women's apparel, speedboats, and motorbikes. When apprehended, the perpetrators reportedly had over \$100,000 worth of merchandise stored in four warehouses. Code lists of outlets for the merchandise were confiscated. These lists indicated that auctions were to be used to move the goods. Furthermore, in the possession of one of the scam operators was an 11-page pamphlet presenting details of the fraud, which was designed to gross \$250,000 within 60 days and \$500,000 within 90 days.

A ploy generally restricted to the organized underworld is to obtain control of a company with a good credit rating. Before suppliers realize there has been a change in ownership, the scam is completed in the manner as outlined above. Credit cards issued to the company before the take-over may be used to defray expenses during the life of the scam.

Previously honest men who resort to dishonest decisions to bail out faltering businesses—the third category of bankruptcy operators—may alter financial statements to create an aura of profitability while ordering increasing quantities of goods to sell at a discount in the hope that increased sales volume will generate needed funds.

Or the scheme may be more blatant, such as in the reported fraud where the management of a textile company knew the firm was going under and decided to set a little aside for a future venture. The firm's post-bankruptcy records indicated sales to a European customer, who apparently was unable to pay for the merchandise. In reality, the customer disposed of the goods for cash, retained a percentage of the proceeds, and sent the balance to the owners of the American firm.

### Tip-offs of bankruptcy fraud

Usually, the early warning indicators of a scam in progress are relatively subtle. But alert credit and sales personnel can recognize them for what they might portend. Tip-offs include the following:

1. A customer's office address is an answering service.
2. A company you supply comes under new management; this is not announced publicly; the identity of the new owners is obscure.
3. A customer orders goods unrelated to his usual line.



4. Ordered quantities increase markedly and cannot be explained by the seasonal nature of a customer's business.
5. Financial statements requested from an account are unaudited and unverified.
6. Remittances from an account lag; the customer's accounts receivable balance climbs; notes or postdated checks are remitted.
7. A buyer from an unfamiliar firm places substantial orders for a wide range of goods at a trade show.
8. Trade references do not check out or cannot be located.
9. A new account's name is the same as that of a well-known company, except for a minor detail. Even the address may be similar.
10. Rush-orders, particularly during the busy season, are placed with above-average frequency. (Scam operators hope their credit limits can be exceeded without detection and/or credit checks omitted, at least temporarily.)
11. An account has an overly impressive name.
12. Potential customers who had resisted sales approaches now inexplicably submit substantial orders. Beware of the too-easy sale.
13. Financial statements of a customer are withdrawn for revision or are delayed because auditors are reviewing the books.
14. An account issues obscure statements about debt restructuring or extraordinary write-offs.
15. Several resignations accompany reports of a customer's operating losses.
16. Personnel with criminal records are installed as managers in a company you service.

See page 66 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 8, 14, 16 in Appendix I.

### Bribes, kickbacks, payoffs

The extent of bribes, kickbacks, and payoffs is best described by one word—pervasive. They occur in dealings between companies, in transactions between business and government, and in negotiations between labor and management. They can involve the janitor or the corporation president. And they can be associated with a wide range of company operations: purchasing, sales, advertising, capital expenditures, contract services, engineering, employment, insurance, electronic data processing, and others.

The objectives of those offering bribes, kickbacks, and payoffs are numerous and include the following: to obtain new business, to retain old business, to cover up short deliveries or inferior products and services, to secure figures on competing bids, to obtain approval and/or speedy acceptance of plans or completed work from government offi-

cial, to influence legislation, to obtain licenses, to receive loans from union pension and welfare funds, to negotiate sweetheart contracts, to prevent work stoppages because of harassment by union officials or politicians, to obtain proprietary information, to influence law enforcement and regulatory personnel, to effect zoning changes, to induce purchase of securities at inflated prices, to prepare or approve false financial statements, etc.

Ethical managers, of course, have a substantial stake in assuring that their respective companies maintain high standards of integrity: personal reputations of the innocent can be sullied through the "guilt by association" phenomenon. In a broader context, the ethically run company is placed at a severe disadvantage if it has to compete for business against firms that achieve an "edge" through bribery. So the task is twofold: maintain integrity within the firm and combat corrupt practices throughout one's industry or profession.

### The techniques of bribery

Some of the more common methods for arranging kickbacks and other payoffs are noted below and are drawn from actual incidents:

1. A pipeline contractor decided to facilitate acquisition of easement rights, certain permits, and labor peace by paying \$110,000 to municipal and union officials. Plans were made to cover up the payoffs by a series of bogus work orders and invoices.
2. Engineering consultants favored with state contracts were called upon to make substantial campaign contributions. Contractors and consultants were given to understand that if they did not contribute, they would not receive favorable consideration for future work.
3. An investigation revealed that small-loan companies used three principal tactics to bribe state officials so they would grant licenses, changes in location, and the like: control and misuse of a trade association, informal planning and cooperation by the companies involved, and individual action. Since the bribes amounted to substantial amounts, the companies paying them had to devise methods by which the expenditures would appear as legitimate deductible expenses paid by check. The companies also had to raise cash for the bribes. Solution: remit checks to lawyers for nonexistent services. These payments—minus income tax payments and an honorarium—were returned to the companies, which used the cash to pay off officials.
4. An engineering firm received a contract from a turnpike authority after agreeing to put a relative of the authority's chairman on the payroll and to permit the relative to acquire 50 percent of the firm's stock.



5. Regarding bribes by companies to state officials, a crime commission commented: "Lawyers, lobbyists, public relations men, or other representatives are provided with funds for which they are not expected to give true accounts. . . . This attempted insulation from moral responsibility is cloaked in such clichés as 'being realistic' and 'meeting competition.'"
6. In one city, 83 percent of observed police misconduct involved the business community. This took the form of free tickets, drinks, and meals; small discounts; and small gifts. Though not always solicited by officers, these favors were generally regarded as a quid pro quo. For example, in return for a free meal a policeman might give the merchant special attention while taking money to a bank. In other cases, the merchant grants the favor because he considers the officer's presence a crime prevention measure.
7. Every contract signed by a certain city during a period of several years was inflated by 10 percent to allow for kickbacks to municipal officials.
8. A wholesale buyer of women's dresses and coats for a large mail order firm exacted payoffs by threatening manufacturers with sudden and disastrous reductions in orders.
9. A financial adviser to the underworld left \$50 or \$100 "tips" to bankers in return for help in avoiding payment of the interest equalization tax on securities purchases.
10. As revealed by the respected New York State Commission of Investigation, a city engineer purchased a house, at cost. Before and during this transaction, the builder filed a number of sewer permit applications, all of which were reviewed and approved by this same city engineer. The Commission also unearthed evidence that, in connection with a housing development, an architect submitted sewer plans to the city for approval. These plans were stamped with the architect's seal and were represented as having been prepared by him. In reality, the architect was the "cover" for a city engineer who prepared the plans and received a \$3,500 fee for them—the same engineer who subsequently approved the plans.
11. With regard to free rides on corporate jets for public officials, a company executive is quoted as saying, "Almost everybody does it. You've got a plane going to California or someplace and you have a few seats . . . available so you call a few people . . . and see if anybody wants a ride. Sometimes, they call you. The problem is what to do when a guy asks for a ride who hasn't voted on your side."
12. Five corporations and eight executives were indicted on charges of having paid \$200,000 in kickbacks to a purchasing agent over

- a six-year period. Most payments were made through a numbered Swiss bank account to a "nominee" of the purchasing agent.
13. A mutual fund manager was indicted for accepting \$540,000 to purchase \$3-million worth of securities at a price that had been artificially inflated by the bribe-givers.
14. According to a recent court decision, employers who supported a testimonial dinner for a union leader by paying \$25 a plate and \$300 for advertisements in the dinner program violated a federal law forbidding any payment, loan, or delivery of any money or other thing of value by an employer or his agents to a representative of his employees, and forbidding acceptance by the latter. The dinner grossed \$44,000, of which over half came from employers. Other reported forms of kickbacks and bribes include payment of call girl and gambling charge accounts, release of confidential information, underwriting of stock market speculation, loans which remain unrepaid, "rental payments" for alleged use of equipment or facilities, lavish entertainment, contributions to favorite charities, subsequent full-time employment of government officials who had been involved in regulatory work affecting the company.

#### Indicators of corrupt practices

The following tip-offs of bribery, kickbacks, and other payoffs are divided into two categories—(1) those relating to dealings between business and government and (2) those pertaining to transactions among private-sector parties.\* (However, there may be indicators assigned to one category that are also applicable to the other.)

First, in question form, these symptoms can be indicative of potential payoffs in a business-government context:

1. Do respected and well-qualified companies refuse to conduct business with the city or state?
2. Are municipal or state contracts let to a narrow group of firms?
3. Is competitive bidding required? On contracts above what dollar amount?
4. Are there numerous situations that justify the letting of contracts without competitive bidding? For example, are there frequent "emergency contracts" for which bids are not solicited? Or are professional services (architectural, engineering, etc.) purchased on a bid basis or "by invitation"?
5. Have there been disclosures of companies submitting low bids but disqualified for certain unspecified technical reasons?

\* Many of the listed tip-offs are based on the "Questionnaire on Corruption" in *Community Crime Prevention*, a report of the National Advisory Commission on Criminal Justice Standards and Goals (1973, 53.75). Available from the U.S. Government Printing Office. Stock Number 2700-00181.

6. Is double-parking permitted in front of some restaurants or taverns but not in front of others?
7. Do some contractors keep the streets and sidewalks reasonably free from materials, debris, etc., while others show little concern about such matters?
8. Is it common knowledge that architects add a sum to their fees to cover "research" at the city's planning or building department?
9. How much delay does a business encounter when applying for a liquor license, building permit, or remittance in payment for services rendered to the city or state?
10. Are government procedures so complicated that a "middle man" is often required to unravel the mystery and get through to the "right people"?
11. Do public officials have significant interests in firms doing business with the government?
12. Have public officials accepted high posts with companies which have recently secured contracts from agencies formerly employing those officials?
13. Is there an effective antibribery statute that embraces all government personnel—not just department heads?
14. Do large campaign contributions precede/follow favorable government rulings?
15. Are costs of conducting similar business operations in two states markedly different, even after allowance is made for legitimate differentials in labor rates, transportation costs, etc.?

Second, also in question form, are possible warning signals of corrupt practices often associated with transactions among private-sector parties:

1. Do employees complain about the quality of supplies they must work with? For example, do clerks and secretaries complain about the quality of typewriter ribbons, paper, and other office supplies? Or do they use the petty cash fund to purchase from outside sources supplies that are available in bulk from the stock room?
2. Do reputable suppliers seem disinclined to submit bids to, or otherwise deal with, your purchasing department?
3. Despite a policy of rotating suppliers, is there frequent use of the same supplier?
4. Are vacations refused or promotions shunned—for fear that corrupt arrangements will be discovered?
5. Is an employee constantly associating with, and being entertained by, vendors?
6. Is the standard of living of anyone who can influence company purchases higher than can be explained by wage or salary level or other legitimate sources of income?

7. Are costs of certain materials or services out of line with industry norms for no apparent reason?
8. For any given category of purchases, are the responsibilities relating to issuance of requests for bids, review of bids, and approval of bids all possessed by one individual?
9. Are there vague "extra charges" associated with obtaining a loan from a pension and welfare fund or any other source?
10. Does anyone who can influence the selection of suppliers have a financial interest in, or relatives employed by, current vendors?
11. Is there a high incidence of order splitting, perhaps calculated to avoid the competitive bidding required for purchases above a certain dollar amount?
12. Does a buyer seem to have a relatively easy time acquiring tickets for hit shows, sports classics, etc.?

See page 67 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 3, 4, 7, 8, 11, 13, 16, 18 in Appendix I.

### Computer-related crime

Obviously, computers do not perpetrate crimes, just as weapons do not commit murders. The point is, however, that computer capability can be misused and, with increasing frequency, is utilized as a powerful partner in crime. Dollar loss per incident has been as high as \$5-million.

Commenting on exposure to computer abuse, one authority said, "Once you've built a window into the system, it's there permanently, and large amounts or small amounts of money can pass through that window over a period of time without any change in risk. . . . Business has probably never been so vulnerable to theft."

As illustrated by the examples in the next section, EDP-related crimes can cut across a wide spectrum of company activity. This is so because computer data bases frequently contain a range of information encompassing the full scope of business operations. As a result, computer abuse can take the form of embezzlement, misappropriation of computer time, theft of programs, and illegal acquisition of such proprietary information as marketing plans and forecasts, product design, secret manufacturing processes, and confidential technical data.

Vulnerability to computer crime is enhanced by management's failure to recognize the hazards to which EDP operations are exposed. This has been explained as the result of a lack of interest, ignorance of the problem, inability to penetrate the mystique of the computer and its technical staff, or a naive assumption about computer invincibility. When the visible audit trail ends at the computer, the prevailing attitude too frequently is "out of sight, out of mind," which is not too far away from "out of business."

\* Electronic Data Processing.

## • Examples of computer abuse

• Although the methods of computer-related fraud are limited only by one's imagination, they generally fall within the categories below.

1. *Programs and programming.* An outside programmer for a bank altered a program so that computer-generated exception reports would not indicate his overdrafts.

In another case, a company's combination accountant/EDP manager altered a computer program so that a few pennies were added to the cost of many purchased items. The altered program also enabled him to keep a double set of records (the actual costs and the inflated costs), a technique that permitted him to steal amounts which did not overly distort the reported results. Without the computer it would have been impossible to make the thousands of cost changes and to do so in a manner that did not arouse suspicions which might have arisen had financial reports contained abnormal deviations from past results. Over a period of five years or so, the accountant siphoned off about \$1-million. To convert the bookkeeping entries into personal profit, the accountant created fictitious suppliers and issued checks to them through bank accounts he had established. Under an alias, he drew out funds as the checks cleared. (This fraud also involved the introduction of fraudulent input data, a technique discussed below.)

Theft of programs is not uncommon. This may be accomplished at the computer installation itself or through remote terminals and telephone circuits. One incident related to several million dollars worth of programs that an employee tried to sell to a customer of his employer.

2. *Computer time.* According to one source, "There probably isn't a corporation in this country that hasn't had its computer system misappropriated for non-business use at some time. It's the same problem as the misuse of copying machines, only on a much grander scale." A number of reported cases have involved computer operators who, in effect, used their employer's computer installation to run a computer service center for personal profit. Overhead is low inasmuch as the employer unwittingly supplies the hardware, software, personnel, and supplies. Reportedly, one employer had to upgrade his computer because of the growing workload.

3. *Input data.* Many frauds depend on undetected manipulations of input data. This might be achieved by introducing fraudulent records, by altering current data, by removing key input documents, or by using a combination of these methods. In a recent case, a \$25,000-a-year executive of a major manufacturer inserted fraudulent data creating fictitious suppliers and truckers. Corporate checks—about \$1-million worth—were issued to these fictitious accounts and pocketed by the executive and his six conspirators. Over the years, he is said to have

received several plaques from company auditors for the excellent condition of his records.

The computer operator for an engineering firm pocketed cash receipts and removed the related input documents. He was able to steal about \$20,000 before customers began to complain that their accounts had not been credited. In a similar scheme, customers who lodged this type of complaint were offered apologies and the explanation, "We're having troubles with our computer. Your patience is appreciated." Customers accepted this explanation, were patient, and the fraud continued for months.

4. *Computer output.* A computer operator in a medium-size manufacturing company prepared a duplicate time card for a shipping department employee. He processed the card with the regular payroll data, except he instructed the computer to omit listing certain details of the second check, although it was included in the totals. The checks were signed mechanically and were totaled to prove that the amount disbursed agreed with the total on the payroll register. After removing the computer-generated duplicate check, the operator forged the employee's signature and cashed the check by a second endorsement. This scheme was repeated many times. By spreading out the duplicate checks among employees from different departments, the computer operator minimized the chances (1) that these employees would notice the increase in their year-end statement of earnings and (2) that the additional payroll costs would be readily apparent in departmental expense statements. Obviously this fraud entailed entry of false input data, alteration of the computer program, and check forgery—as well as removal of output data (the duplicate checks).

Among many other computer-related crimes involving output data are thefts of printouts of mailing lists, customer lists, and other confidential information.

5. *Data communications.* This pertains to the use of telephone circuits—public or private—to transmit data back and forth between computers or between computers and remote terminals. For example, data communication may occur between a remote terminal in a company and a time-sharing service bureau it uses, or between a remote terminal and a company-owned computer. Any of the four preceding areas of computer-related fraud could involve use of telephone circuits—particularly public (dial-up) circuits, in contrast to the leased (private) lines.

A reported incident was related to "telephonic penetration" of a time-sharing service bureau. Through an interstate phone call the perpetrator gained access to the bureau's computer, executed programs, copied data from the files of bureau customers, and extracted the bureau's own billing records, rate ledger, and general ledger. Not only are

unauthorized processing and copying possible through telephonic means but so are the illegal creation, alteration, and interception of computer data. A number of methods have been applied by which to gain unauthorized outside entry to a computer system that utilizes communication links:

- a. **Wired tapping.** This involves connecting a "tap" directly to telephone or teleprinter lines in order to intercept and record messages.
- b. **Electromagnetic pickup.** Electromagnetic devices need not be connected directly to circuits and are designed to intercept the radiation generated by the computer central processor, telephone and teleprinter lines, or microwave communications.
- c. **Browsing.** By tying an unauthorized terminal into a system that does not authenticate terminal entry, the "browser" could gain access to the computer for a variety of purposes.
- d. **Between-the-lines entry.** An unauthorized terminal is connected to a valid private line and enters the system whenever the legal user is inactive but still holds the communications channel. Sometimes the sign-off signal of the valid terminal is intercepted and canceled by the illegal user, who then continues to access the computer.
- e. **Piggyback entry.** This is achieved by selectively intercepting messages from the computer to the legal user, adding or deleting information, and releasing the modified message to the valid user.
- f. **Trap door entry.** A computer system is probed for unprotected or weak points caused by errors or logic oversights. Once discovered, they can be exploited again and again.

6. **Computer hardware.** Though research for this publication did not unearth instances where computer engineers or maintenance personnel tampered with hardware components to effect a fraud, this is an exposure that deserves closer scrutiny, according to some EDP authorities.

The above six areas of exposure to computer fraud should not mislead readers into believing that computer systems are, of necessity, highly susceptible to exploitation. Fortunately, as noted later, many countermeasures exist. For example, criminal histories and other data contained in a responsibly maintained and protected computer of a law enforcement agency are less susceptible to unauthorized access than they would be if stored in traditional file drawers at various locations. Indeed, as noted in Chapter IV, the computer promises to be an exceptionally potent weapon by which to guard against many forms of white-collar crime.

#### What are some of the tip-offs?

This discussion of danger signs of computer-related fraud is restricted to those tip-offs that could conceivably come to the attention of, and be recognized by, executives with little or no technical background. One

expert interviewed for this report stated that an indicator of possible problems was the presence of some or all of the following elements of a vulnerable computer system:

- The computer generates negotiable instruments or is utilized to transfer credit, process loans, or obtain credit ratings.
- Employee relations are poor—perhaps there is a conflict with a union or with a disgruntled computer operator. Dismissed EDP personnel are allowed to remain on the job until their termination date. A computer programmer is overqualified for his job, with the possible result that his bottled-up creativity will seek undesirable outlets.
- Separation of key functions is inadequate, in terms of either responsibility or physical access. (Programmers should not also be computer operators—a likely situation in small businesses with minicomputers.)
- After-hours EDP operations are loosely supervised. Second and third shifts are typically very informal—programmers are at consoles debugging on-line, whereas they would never get within a hundred feet of the computer room during the day.

• Auditors have little, if any, expertise or background in computer operations. (As a result, they may audit "around the computer," not "through" it, and, in effect, miss weak spots that are being exploited.)

Among the many other indicators that may warrant follow-up investigation are these:

1. Computer reports, or carbons of continuous forms, are in the outside trash bin.
2. EDP auditors were not involved in development of the application programs. Possible result: absence of built-in tests and checks.
3. Your industry is depressed, yet computer-generated data indicate record sales for your firm.
4. Frequent violations are noted of the generally accepted rule that at least two people should be present when EDP equipment is operating.
5. Computer operations, including storage of output data, can be viewed by the general public.
6. System components are near open windows, next to outside walls, or in front of open doors. (Exposure to the telephoto lens, parabolic microphone, or electromagnetic device is thereby increased.)
7. The personnel department subjects candidates for EDP positions to only routine screening. (The chief weakness of computer systems is people.)
8. Data preparation equipment is easily available and loosely controlled.
9. Access to computer facilities is not limited to those with a "need to know."

10. Transactions rejected by the system because they did not pass one or more control points are put aside, ignored, or deliberately overridden.
11. An increase is noted in employee complaints about over-withholding "by the computer" or about inaccuracies in year-end earnings statements.
12. There is a surge in customer complaints about delays in crediting their accounts.
13. Key forms are not numbered sequentially, such as purchase orders, invoices, checks.
14. Continuous-form checks are not stored securely.
15. The bill from the time-sharing service bureau is significantly more than what the customer's computer-time logs seem to justify. Or charges allocated to other departments by a company's computer facility seem out of line. (Indicative of unauthorized use of computer time, perhaps.)
16. Payments are sent to new suppliers, but they are not listed in various directories.
17. Access to the central processor is attempted from a remote terminal whose exclusive user is on vacation.

See page 69 and Chapter VI for four measures. Regarding sources of assistance, see Nos. 1, 3, 14, 16 in Appendix I.

### Consumer fraud, illegal competition, deceptive practices

As indicated by the table in Chapter II, the financial impact of this category of white-collar crime is staggering. With regard to consumer fraud alone, a district attorney estimates that there is "more crime committed against consumers every day than there is crime in the streets. The public is constantly being fleeced. . . ." But consumers are not the only losers. Responsibly run companies lose sales and market share to those firms which rely on deception and fraud. And the loss of confidence in business resultant from consumer fraud hits the ethical as well as the unethical firm.

Frequently, businesses are at least as much the victims as consumers, such as with regard to counterfeit products or "passing off," industrial espionage, exclusive dealing arrangements, discriminatory discounts, and restrictive provisions in shopping center leases designed to give major tenants the right to disapprove leases of smaller stores.

So by policing his own operations and by being alert for the practice of consumer fraud and other illegalities in his own locality, industry, or profession, the honest businessman not only helps consumers but also himself.

The balance of this section first discusses those frauds whose direct victims are predominantly consumers and then considers those schemes whose primary targets are businesses and businessmen.

#### Types of fraud directed primarily at consumers

Reportedly, there are over 800 different schemes that have been utilized to prey on consumers. In view of such an array of possible frauds, this section can only hope to highlight the wide range of such schemes and to indicate sources where more details can be obtained.

Among the myriad types of schemes which have defrauded consumers are those pertaining to "free" goods, phony charities, unsorted merchandise, work-at-home "opportunities," fake laboratory tests (e.g., for cancer), "free" medical clinics which give false diagnoses leading to expensive treatments, going-out-of-business sales, fake contests, shoddy or unnecessary home repairs, fictitious list pricing used to indicate a "saving" when compared to the "sale" price, meat bargains for home freezers (after cutting and trimming, the weight loss might be as much as 50 percent), bait-and-switch advertising, unscrupulous correspondence schools, degree mills, alleged health spas, price-fixing conspiracies, and collusive bidding.

Awareness by businessmen of traditional schemes—and their operational details—can serve as the basis for intelligent and eyes-open self-policing of practices in one's industry or profession in order to weed out those tactics which are unfair or deceptive either in fact or in appearance and thus minimize or prevent adverse consumer or regulatory backlash. The following sources can be expected to possess, or to refer you to, information on a wide array of methods by which consumers have been exploited: (1) local Better Business Bureau (or Council of Better Business Bureaus, Washington, D. C.); (2) local Chamber of Commerce; (3) Consumer Protection Bureau of the Federal Trade Commission; and (4) local and state consumer protection agencies. A 28-page pamphlet containing a basic overview of many deceptive schemes has been prepared by the U.S. Postal Service: *Mail Fraud Laws: Protecting Consumers, Investors, Businessmen, Patients, Students.*\*

#### Tip-offs to current consumer fraud schemes of major concern

In addition to providing background information on basic fraud "formats," the sources listed above may also be in a position to identify schemes currently prevalent in your line of business or profession. And the emergence of frauds can often be anticipated by a review of current and impending national problems or crises. For example, the Economic Crime Project of the National District Attorneys Association is anticipating swindles capitalizing on the energy crisis, such as the

\* Order from the Superintendent of Documents, U.S. Government Printing Office, Washington, D. C. 20402. Price: 20 cents. Stock Number 390-0231.

possible promotion and sale of worthless fuel-saving devices or services, diluted gasoline, inferior insulation, etc.

Interviews with local prosecutors, regulatory officials, and others in a position either to monitor major types of fraud already in full swing or to anticipate schemes about to emerge reveal several deceptive practices whose presence, in effect, constitutes a danger signal that cannot be ignored by those concerned about the consumer-related integrity of their business, industry, or profession. The following are among such frauds, which frequently exhibit these characteristics: they are committed by those who understand human weakness and exploit it; they offer something for nothing, or a great deal for very little; they take advantage of consumers' lack of knowledge; they involve beguiling promises; they rely on tactics designed to prevent or discourage consumers from making an investigation or, when this is not possible, perpetrators seek to discredit in advance what they know will be the outcome of that investigation.

1. Schemes involving abuse of the holder-in-due-course doctrine. Such abuse is particularly prevalent in the home-repair field. (See page 9 for an example.) This could also occur in connection with the sale of defective or shoddy major appliances. A major tip-off of such an abuse occurs when the vendor sells the consumer's installment agreement almost immediately after delivery of the appliance and gives the buyer of the installment paper an abnormally high discount.

2. Debt collection and consolidation. One debt collection scheme involved a company that sold forms to businessmen. One set of forms was designed to accompany the statements of businesses and contained this warning: "We must hear from you within ten days or this account will be turned over to the State Credit Control Bureau." A second set of forms bore the letterhead of the fictitious Bureau and copies were mailed from the state's capitol.

3. Repair swindles. Misrepresentations are made with regard to (a) the necessity for the repairs and (b) the quality of work performed as compared to that offered. Frequently, the promised work never begins. Primary victims are owners of homes, cars, and major appliances.

4. Work-at-home schemes. Grossing an estimated \$500-million out of the pockets of several million people each year, this type of fraud might involve ads promising large profits, indicating "no experience necessary," and forecasting a great demand for such work-at-home products or services as addressing envelopes, gilding greeting cards, raising chinchillas, performing assembly work, clipping items from newspapers, etc. What often happens is that the cost of the information or materials which the prospective worker has to purchase from the promoter exceeds the profit potential of the work-at-home product. Contrary to expecta-

tions, the at-home worker finds he must sell his product himself or the promoter rejects the product as not being up to standards. Tip-offs include the requirement to buy something before you can begin work or before you are told how the plan operates, the absence of an opportunity for salaried employment, and the use of anonymous and untraceable personal testimonials.

5. Door-to-door sales frauds. Misrepresentations by salesmen have pertained to vacuum cleaners, water softeners, encyclopedias, magazine subscriptions, cemetery lots and markers, charity solicitations, correspondence courses, among others. In one case, a representative from a freezer company called a homeowner and told him he had won a free ham. When the salesman arrived at the home, he tried to sell a freezer. When the homeowner said he wanted the free ham only, he was told to go to the Salvation Army.

6. False and misleading advertising. One aspect of this problem is bait-and-switch advertising. A product is advertised at a bargain price, but when the consumer arrives at the store, one or more of the following occurs: derogatory statements are made about advertised goods for the purpose of selling a more expensive substitute; the advertised goods are purposely unavailable but a more expensive alternate is on hand; the publicized product is tampered with so it will not operate properly when the customer tests it, thereby inducing him to trade up; an order is taken for the advertised merchandise, if the customer insists, but delivery is not made.

#### Illegal activities directed at business and the professions

Many deceptive practices and anticompetitive illegalities are aimed at those in business and the professions, although consumers can be hurt by some of these schemes also (particularly by the pyramid sales and franchise frauds noted below). Some of the more common are the following:

**Advance-fee loans.** This racket is particularly prevalent in times of tight money. A single advance-fee loan scheme can victimize hundreds of businessmen and net millions of dollars for its organizers before running its course. Advertisements may appear in the financial press indicating that the XYZ Bank or Insurance Co. has \$100-million available to loan to those requiring business financing. Financial statements of the company indicate many millions in assets. In reality, the lending institution, often located overseas, is a shell corporation possessing a portfolio of bogus or overvalued securities (perhaps camouflaged by a counterfeit Dun & Bradstreet report) and, in reality, could be nothing



more than a dingy office in which there is a phone, a secretary to answer it, and a Telex in the closet. In one case, a \$290-million offshore "insurance company" was nothing more than a post office box and a metal nameplate on a garage door.

A person in need of a loan—perhaps to finance the completion of construction—deals with XYZ through one of its brokers, who requests 8 to 10 percent of the desired loan as an advance fee. Fees have ranged up to \$170,000. When the loan or letter of credit is not forthcoming various excuses are offered. Or fake documents are presented indicating that the loan is in process. Or the loan applicant is told that his operations must be surveyed by ABC Co. (for a fee, of course), which will send a report to XYZ. The loan, needless to say, never does materialize.

*The Ponzi game.* Sometimes offering prospective investors a return of 1 to 4 percent weekly, a Ponzi operator convinces people that they should entrust their money to him, perhaps guaranteeing to return their funds after a specified period if they so desire. Initial investors do receive their promised interest at first. They spread the word. Additional investments pour in, which are used to pay the interest promised earlier participants. When "interest" payments begin to outstrip funds acquired as the result of new investments, the time has arrived for the Ponzi operator to take his money and start anew in another state.

*Multilevel distributorships or pyramid sales.* The potential investor is told he can earn large sums for an initial outlay of just a few thousand dollars, which would entitle him to a distributorship. He is told that he will profit by selling the product line and especially by exercising his right to sell lower-level distributorships. However, distributors within a locale can become so numerous in relation to the market for the product that profits are elusive if not impossible. Also the pool of potential buyers of lower-level distributorships is likely to soon evaporate. Indeed, with reference to one pyramid scheme, a government agency calculated that if each investor recruited others at the rate the scheme's promoters said was necessary to earn the sums promised, every person in the nation would have to be recruited within one year. Among the products or services that reportedly have been marketed in this fashion are fuel additives, cosmetics, vitamins, buying-club memberships, fire and burglar alarms, clothes, soap products, self-motivation courses, and household items.

*Franchise abuse.* In one scheme, the franchisor overstated the earning potential of the franchise; the cost of the franchise was much higher than represented; discounts for supplies, planned promotions, and promised training did not materialize.

*Land sale fraud.* Businessmen—especially those in the small-business category—and the general public are bilked of an estimated \$500-million annually by unscrupulous land developers. The administrator of HUD's Office of Interstate Land Sales Registration commented, "Thousands of people every week are being misled or cheated when buying lots for recreational, retirement, or investment purposes. . . . Interstate land sales promotions are often conducted in a high-pressure atmosphere that sweeps the unsophisticated buyer off his feet. Before he is aware that he has made a firm decision, he may have signed a sales contract, waived his rights to cancel that contract, and started to make payments. Later, if he is dissatisfied with his purchase, it may be too late to change his mind."

Among common sales abuses are misrepresentations about current value or probable resale value, overstated refund promises or agreements, oral or written misrepresentation of facts, failure to follow through on promised future improvements, failure to deliver deeds and title insurance policies or other important papers, failure to make good on free vacations and other sales inducements, abusive treatment designed to embarrass a customer into signing a contract, bait-and-switch tactics, failure to provide a copy of a federally required Property Report at or before the time of sale.

One case involved the owner of a small business who purchased a lot in the "commercial district" of a development and found, upon inspection, that not even a single street existed. This is described by a Government official as "not uncommon." In another instance, a brochure advertised the availability of lots in a location ideal for an industrial park. Payments could be as low as \$60 per month. A return of 20 percent was indicated. Closer examination, however, revealed that the site was not near a state or federal highway and could not be served by a railroad or anything else that would make the location suitable for an industrial park.

*Other frauds and illegalities.* Some companies have been severely hurt by counterfeit products, which have included stereo tapes and records, auto parts, and perfume. In the latter instance, a supplier of uniquely shaped perfume bottles sold quantities not only to the perfume producer which had designed the bottle but also to another company that filled the bottles with an inferior potion and passed them off as the legitimate product.

Many companies—and U.S. workers—bear the brunt of problems caused by competitors hiring aliens who have illegally entered the country in massive numbers. Entering the United States at points ranging from New Hampshire to the Southwest, aliens are hired at substand-

and wages by unscrupulous employers, who obviously gain an important result is often obtained by management and unions (frequently paper or dummy locals). In return for a favorable contract, the employer pays a fee to union officials.

Other firms are injured by their competitors' reliance on the *illegal "expertise" and resources of underworld elements*. An example of this is referred to in a report of the New York State Commission of Investigation: "What is even more significant was the evidence indicating that this businessman, for reasons he refused to give, was bringing hoodlums into the companies he owned or controlled. This enabled the hoodlums to exercise influence or control over the entire corporate-conglomerate."

The impact of *industrial espionage and tax evasion* by competitors on ethically run enterprises is obvious, as is being the victim of any of the many "FTC offenses" by which competitors may seek advantage, such as—

- Inducement of discriminatory prices, promotional payments, or delivery service from suppliers.
- Deceptive nondisclosure, such as the failure to mention that advertised goods are seconds.
- False labeling.
- Improper sales methods, such as failure to disclose that the price quoted for a carpet refers to the cost per square yard.
- Misleading identification of product composition—for example, describing hardboard panel with a marble finish as "marble."

Early symptoms of business-oriented frauds and other illegalities

Symptoms indicative of a possible *advance-fee* fraud include the following: (1) a lending institution advertises the availability of millions of dollars for loan purposes at reasonable rates, even though the economy is in a period of tight money; (2) the lending institution is located offshore or in Europe; (3) the institution's financial statements are unaudited; (4) the name of the institution sounds impressive—too much so; (5) the listed assets of the lender are also incredibly impressive; (6) names of board members are not familiar; (7) your banker does not have firsthand knowledge of the lending institution; and (8) loan applications arrive in the mail unsolicited.

The best warning signal of a Ponzi operation is the very reason why it succeeds so often: the promised returns are "too good to be true." Among other tip-offs are these: the background and reputation of the person to whom money is entrusted are not documented but can be "verified" only through hearsay; claims are made of little or no financial

\* *Packeteer Infiltration into Legitimate Business*, March 1970, p. 114. See also Chamber of Commerce of the United States, *Deskbook on Organized Crime*.

risk; periodic statements indicating substantial profits are not audited; *contrary to original promises, requests to withdraw funds meet resistance*; the "financial wizard" handling the funds seems to make a point of creating an aura of personal affluence and claims to be investing money of well-known personalities.

The principal tip-off of a *pyramid sales* scheme is that the emphasis is on the money-making potential of selling lower-level distributorships rather than on the earnings possible from selling the product or service itself. Other indicators of this fraud are claims of enormous profits from a relatively small investment; hard-sell techniques to recruit distributors—perhaps involving a series of revival-like meetings characterized by emotional "sermons," money- or success-oriented songs, and persistent attempts to sign up distributors; numerous ploys to pressure or embarrass individuals into buying a distributorship ("Those of you who want to join, sit down—the rest of you keep standing,"); refusals to take down payments except in cash. The related area of *franchise fraud* is often associated with one or more of the preceding tip-offs as well as with the following early warning indicators:

- The franchisor has just started operations and does not have a track record.
- He resists giving you the names and addresses of his franchisees.
- The name of the franchise is suspiciously similar to that of a well-known operation.
- The territory to be served by the franchise is not spelled out and profit forecasts are not supported by a market survey.
- "No experience necessary" is emphasized.
- Certified profit figures of other franchisees are not available.
- The franchise product or service seems gimmick-oriented or is based on nothing more than a current fad.

Advance symptoms of a *land sales fraud* include the following: the proposed contract would have you waive the cooling-off period provided by law; salesman imply the Government has inspected and endorsed the development because it is registered with HUD; a Government-required Property Report is not provided more than 48 hours before you sign or does not contain on the front page this warning in red, half-inch high letters—Purchaser Should Read This Document Before Signing Anything; advertising claims are inconsistent with what is contained in the Property Report; an on-site inspection of the property is discouraged; the developer imputes future success to his current project by emphasizing his past accomplishments; key oral promises are not reflected in the written contract.



Signs that a company's product is being counterfeited include (1) quality-related complaints from consumers who live in sections of the nation where the firm does not carry on marketing activities and (2) the theft of packing cartons or labeling equipment. Receipt of complaints about products you do not manufacture but bear your label or trademark is indicative of someone passing off his products as yours.

Grumbling among the rank and file can reflect concern about illegal employment of aliens by other firms. A possible sign of sweetheart contracts is that wages of a competitor's unionized workers are conspicuously below par in comparison with similar businesses in the region.

See page 73 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16 in Appendix I.

### Fraud by credit card and check

What checks do for our commercial system today is the predicted role for the credit card/computer combination tomorrow. Thus, with an estimated 26 billion checks used each year and with about 300 million credit cards in circulation, frauds involving these payment mechanisms cannot be taken lightly.

What are the exposures to credit card fraud?

In contrast to the recent past, credit card losses due to fraud have reportedly declined as a percent of sales for most card issuers. One issuer reports an absolute decline in fraud-related losses despite an increased volume of business.

For such an encouraging trend to continue, however, increased cooperation is required among the credit card issuers (the companies granting the cards), acceptors (merchants, etc.), and users (cardholders). All can be hurt by fraud. Issuers are absorbing an estimated \$100-million annually in fraud-related losses. Lost or stolen cards subject users to inconvenience and possible monetary loss. The acceptor who is careless may bear the financial brunt of fraud under certain circumstances and could even be placed at a competitive disadvantage if no longer authorized to honor the issuer's card.

Credit cards are obtained for fraudulent purposes in a variety of ways. The counterfeiting of credit cards is always of concern to card issuers even though this has occurred relatively infrequently. But there is considerable apprehension that as the more traditional methods of credit card fraud become less and less successful, counterfeiting will evolve into a major problem. The results of a survey by one group of credit card issuers are indicative of how defrauders secure their cards:

- 20 percent of fraud-related losses were due to the issuance of cards as the result of false applications.

- 20 percent of fraud-related losses pertain to cards that were issued to, but never received by, legitimate applicants.
- 60 percent of losses involve cards that were lost by, or stolen from, cardholders.

One false-application procedure is either to observe a user's card number and name during the course of a credit card transaction or to obtain this information by retrieving the carbons of credit card charge slips from merchants' trash containers. Public records are then studied to gather background information about the cardholder: address, homeowner or renter, occupation, etc. This is used to apply for a card from another issuer. A change of address is indicated. Or the defrauder might notify the issuer of the card held by a legitimate user that the latter is changing his address—and "please send me an additional card for my wife."

Sometimes a fictitious name is used on the application. Frequently, the applicant is listed as a doctor or lawyer in the belief that issuers are reluctant to embarrass those in the professions by conducting a thorough check. Credit references may be stores which are known to be unresponsive to inquiries about their customers' credit status. On occasion, employees of card issuers have been bribed to approve false applications. Cards obtained through false applications might be used safely for up to two months in conjunction with counterfeit identification documents.

Cards issued to, but never received by, legitimate applicants may have been stolen at the manufacturing stage, from the mails, or after delivery but before the applicant opens his mail. Cards acquired in this fashion often are used safely for about 28 days.

Regarding cards lost or stolen from users, this occurs most frequently in hotels or motels, according to one authority. Pickpockets are Number 2 on the list. And thefts from glove compartments of cars rank Number 3. Frequently, credit cards are lost or stolen in restaurants and bars. The user may absentmindedly forget the card. The waiter may hide it under a plate or napkin in the hope that the customer will forget it. Or the waiter may return from the cashier with someone else's card, which has outlived its usefulness, and gamble that the user will not note the switch. Once found or stolen, a credit card may be used by the finder or thief or sold to a second party, who may be a fence.

Representative credit card schemes include the following:

1. A merchant and a holder of a lost or stolen credit card agree on a "purchase" of a \$500 television set. The credit card transaction proceeds in the normal way, except in lieu of the set the unauthorized cardholder receives \$250 from the merchant, who in turn collects \$500 from the card issuer. The store owner may eventually sell the set at a cash

discount to another merchant or to an out-of-town friend. Reportedly, at one time 60-65 percent of the "Mom and Pop" outlets in a major metropolitan area were involved in this type of fraud. Such collusion is usually cited by issuers as responsible for a major portion of their fraud-related losses.

2. After purchasing major appliances with a fraudulently obtained credit card, the buyer fences them for 30 percent of their retail value.

3. A waiter or gas station attendant imprints two sets of charge slips: one for the current transaction; the other he fills in later and forges the cardholder's signature.

4. A cashier raises the \$7.00 total on the credit card slip so that the sum reads \$70.00.

5. A waitress presents a bill for \$50 and receives cash, which she pockets. Using a lost credit card, she accounts for the bill by preparing a charge slip for \$50 and forging the cardholder's signature.

6. A card is treated so that carbons of the charge slips are not imprinted.

7. A stolen credit card is presented to a bank for a cash advance.

8. Credit cards stolen by prostitutes and pickpockets are used to purchase airline tickets, which are sold at a discount to travelers.

9. Says a well-known credit card defrauder: "Yes, I gave [stolen cards to] a lot of prostitutes. . . they can use the card in the man's name as the wife, and they work them for two days and they'd split the fee fifty-fifty down the line, and sometimes I had as much as six to seven people working different credit cards."

10. When cards become unsafe, operators often give them to cooperative merchants or employees, who turn them in to the issuer to collect the recovery award. Or a hot card is dropped on the sidewalk or in a terminal, perhaps to be spotted by a passerby who will try to use it, get caught, and be blamed for its previous unauthorized use as well.

#### Danger signals of credit card schemes

The credit card user can be alert for these danger signals: the usual monthly bill from the issuer does not arrive (address changed by a defrauder, perhaps); a charge slip included with his monthly bill indicates a total larger than that on his corresponding "customer's copy" slip; a charge slip enclosed with his monthly bill does not correspond with any of his "customer's copy" slips (indicative of double imprinting at the point of sale); the person behind you at the sales counter seems unusually attentive to your credit card transaction (as if to note your card number and name); a renewal card does not arrive several weeks before the expiration date of the current card; double imprinting by the cashier is observed; a waiter misplaces the card.

And there are plenty of fraud symptoms that credit card acceptors can detect:

- Card has expired or is not yet valid.\*
- Alteration of the card is obvious.\*
- Card is on the issuer's cancellation notice.\*
- Signatures on the card and charge slip are significantly different.\*
- Customer selects his purchases rapidly.
- Customer's attire is inconsistent with the nature of his purchases or with the type of card he is presenting (shabbily dressed person presents an "executive" card).
- Card is presented by a youth or a drunk.
- Cardholder asks to split his purchase between charge slips—possibly in an attempt to forestall an authorization call to the issuer.
- Cardholder attempts to rush a transaction.
- Cardholder makes purchases, leaves the store, and returns for more purchases.
- Cardholder makes multiple purchases—all under the floor limit.
- Cardholder purchases many of the same items but in different colors, sizes, etc.
- Customer does not appear to be the type of person who lives in the section of the city indicated by the address on the card.

As for credit card issuers, their suspicions are aroused by such things as unusual activity in an account, spending inconsistent with past patterns, hand-delivered credit card applications (perhaps a false application delivered in a way to circumvent the mail fraud statute), cardholder complaints about overcharging or extra charges, etc.

#### Using checks to defraud

Check fraud, estimated at \$1-billion annually, occurs more frequently and over a wider area than in the past, according to many authorities. Techniques of bad-check passers are varied and include the following:

1. A man purporting to be an executive of a local company calls a bank, indicates his assistant will arrive there shortly, and requests that someone ask the assistant to call him. The assistant arrives, receives the message, makes the call. Having thus established his identity, he is allowed to cash what turns out to be a counterfeit check bearing the name of a local company.

2. A passer opens a bank account by depositing cash and receives a stamped duplicate of the deposit slip. Returning on the same day to two or three different tellers at the same bank, he presents the duplicate deposit slip to prove that he has funds to cover the check he is presenting.

\* Failure to note this could make the acceptor liable for any loss resultant from the sale. He is also liable if he fails to call the issuer for authorization of the transaction if the amount of the sale exceeds a predetermined sum.

ing for cash. Money far in excess of the deposit is withdrawn in this manner.

3. Another scheme involves obtaining a sample of a bank officer's "OK" signature or initials, which must appear on certain checks before a teller will cash them. The passer then arrives at the bank with two checks: one is for a small amount and is legitimate; the other is for a large amount and is either stolen and forged or is a counterfeit and it bears the forged "OK" signature. He presents the legitimate check for cashing and is told by the teller to secure the OK. He goes to an officer who does this. On his way back to the teller, he pockets the legitimate check and presents the larger one for cash.

4. Passers establish a phony company, issue bogus payroll checks, and cash them with local merchants who, if they called the "company" for confirmation, were reassured that the person presenting the check was an employee.

5. Raising the face amount of a legitimate check is a common deception, achieved through altering and/or adding to the figures and wording. One scheme involves deliberately overpaying a bill and receiving a refund check from the company. The refund check is then altered so that, for example, \$6.00 becomes \$60. Or a passer certifies a check for a small amount, then raises and cashes it.

6. Gaining access to the firm's check writing machine, executive-signature imprinter, and blank checks, an employee wrote \$1.1-million worth of fraudulent checks and successfully cashed them.

7. A bad-check artist opened savings accounts in several banks, presented worthless checks (all in the amount of \$188), deposited \$80, and retained the balance in cash. A related scheme depends on mail thefts to provide information about a depositor's name, bank, account number, etc. A fraudulent check is prepared—payable to the person whose mail was stolen—and is deposited minus, of course, a sizable sum taken as cash. Or a stolen check with a forged endorsement is presented for cash.

8. Check fraud once-removed involves the impersonation of bank examiners or law enforcement officials. The impersonator requests a depositor to withdraw funds in cash so that possible teller irregularities can be verified.

9. After opening an account with three fraudulent checks totaling \$102,000, a depositor obtained \$180,000 in cashier's checks, which he cashed before the fraudulent checks cleared.

10. Merchants are exposed to the common practice where a customer purchases goods by presenting checks for which there are insufficient funds. Frequently, such checks are for amounts in excess of the purchase, the balance being received as cash. Or such checks may be

presented for cash—as at the check-cashing window of a supermarket. The customer presents stolen or counterfeit identification documents.

11. An individual possessing stolen travelers checks carefully forges the countersignature on each check except the top one before asking a hotel cashier, bank teller, etc. to cash them. He openly countersigns the top check in the presence of the cashier, then cups his hand in front of the checks and, with the cashier's view blocked, fakes the countersignatures on the balance. The top check is palmed and the rest are presented for cash.

#### Tip-offs indicative of check fraud

The handwriting of the person presenting the check is not consistent with his or her character and age. In one case, the forger was a tall, athletic-looking man, but his handwriting was small and precise, like a woman's. And he wrote very slowly.

Haphazardly set type for counterfeit checks may contain misspelled company names, towns, etc.—for example, "security" instead of "security." Beware of odd spellings for common names.

Oddly shaped numerals may indicate a raised check—as might poor spacing, blots, erasures, or changes in ink color or thickness of lines.

The payee's name as indicated by the endorsement is different from the way it is spelled on the face of the check.

A juvenile presents a check. Or a teen-ager presents a Government check identified as issued for pension purposes (as indicated on the left side of such checks).

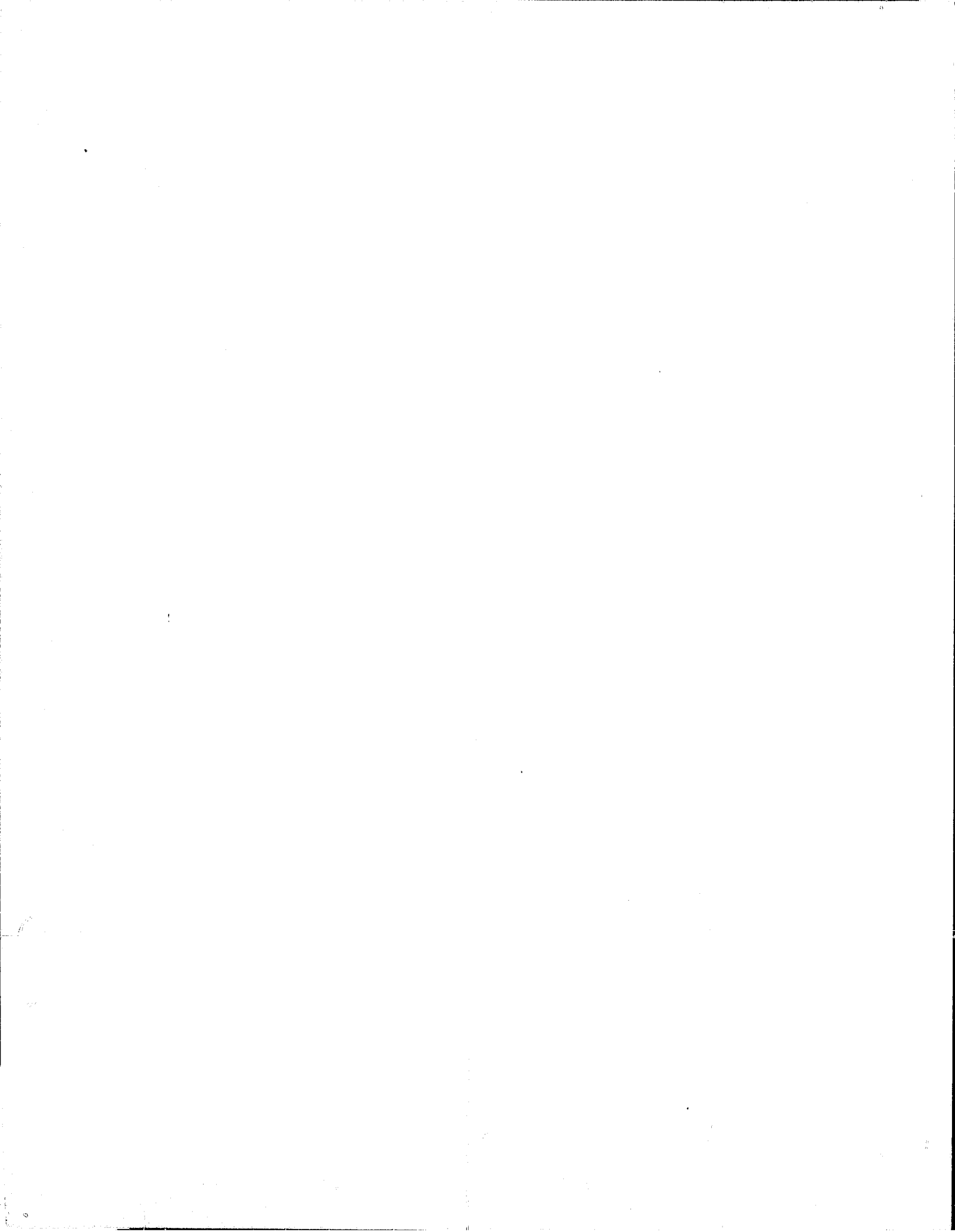
The date on the check is old or postdated. Or the check is prepared in pencil.

The person presenting the check is a glib or distracting talker, is over-attentive to people about him, or tries to rush the transaction because "I'm late for an appointment."

The customer is unable to provide adequate identification. Or, although the signature on the identification document matches that of the customer, the physical description indicated by the document is at variance with the customer's appearance. Or the document indicates the customer's residence is in a state different from that of the bank on which his personal check is drawn.

Symptoms of possible fraud in connection with travelers checks include the following:

- Many travelers checks are cashed at one time, which is not the typical pattern.
- Travelers checks have been countersigned in advance.
- The signature at the top of the check is by felt-tip pen, perhaps used to alter the signature so it can be more easily forged when the check is countersigned.



**CONTINUED**

**1 OF 5**

- A low-priced item is paid for with a high-denomination check.
- The person countersigning the checks uses his free hand to obstruct the cashier's view of the procedure.
- After countersigning a book of legitimately acquired travelers checks, a customer "accidentally" drops them on the floor, pockets them, and produces a second book of checks, which were stolen and leisurely countersigned in advance.

See page 73 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 8, 14, 16, 17, 19 in Appendix I.

### Embezzlement and pilferage

The embezzler fraudulently appropriates or converts to his own use or benefit money or property that has been entrusted to him (the custodian of the petty cash fund removes a few dollars and covers up with a false voucher). The pilferer may just take (the mail boy steals \$10 from the open petty cash box). However, the net result is the same: loss of cash, securities, tools, spare parts, raw materials, scrap, machinery, office supplies, etc.

In addition, an important objective of the dishonest employee may be theft of services—that is, unauthorized use of company assets, personnel, and time.

For many businesses internal theft—whether by embezzler or pilferer—is regarded as the Number 1 problem. According to one observer, about 50 percent of those who work in plants and offices steal to a greater or lesser extent. However, about 5 to 8 percent of employees are said to steal in volume. The cumulative effect is substantial. For example, one authority attributes 60-75 percent of retail inventory shortages to employee theft.

Because all embezzlements and pilferage cannot be prevented, some businesses seem to operate as if none of it can. In reality, extensive employee dishonesty is symptomatic of mismanagement, not indicative of an impossible problem.

#### How the pilferer and embezzler can hurt you

Cashier does not ring up a sale for which the customer has paid the exact amount. A \$5 shirt is rung up as a \$2 sale. Overring slips cover up cashier's dipping into the till. Fraudulent cash refunds are made. Cashier gives an unauthorized discount or markdown to a friend. Or this is done by one department manager for another, on a reciprocal basis.

A manager has his lawn mowed by company employees on company time. A secretary uses the copying machine for her husband's at-home business. In-house counsel uses corporate secretarial help in connection

with his private practice. A retail buyer also places orders for her side-business.

Payments are made to fictitious suppliers or employees. An employee, for a fee, gives a customer an allowance for trumped-up defects. An employee pockets funds obtained from delinquent accounts and tells his company that the debt was uncollectible. A clerk steals from incoming payments and then applies subsequent remittances on other items to cover the amounts stolen (lapping). A disbursements manager forges a company check to his own order and destroys the check when returned by the bank. Among many other tactics are the following:

- Overcharging customers and pocketing the difference.
- Paying suppliers twice and keeping the second check for personal use.
- Pocketing unclaimed wages.
- Increasing the amounts of suppliers' invoices and appropriating the difference or splitting it with the suppliers.
- Making fictitious advances to employees.
- Pilfering merchandise covered by doctored inventory lists.
- Manipulating time cards.
- Kiting checks.
- Overloading expense accounts.
- Carrying employees on the payroll beyond their actual severance date—and pocketing their checks.
- Altering a cash sales ticket after handing the copy to a customer.
- Shipping merchandise to an employee's or relative's home for disposal.
- Secreting tools or products on person, in lunch box, or in vehicle.
- Substituting valuable materials for scrap being loaded on a truck.
- Throwing pilfered items over the perimeter fence for retrieval later.
- Altering bills of lading to cover up partial off-loading prior to destination.
- Putting incorrect shipping labels on packages which were rewrapped because of damage.
- Declaring incoming shipments short when such is not the case.
- Recording that an outgoing truck had one more carton than it actually carried.
- Removing appliances from cartons of outgoing shipments and substituting bricks.
- Carrying cartons from shipping dock to personal car.

#### Early warning signals of embezzlement and pilferage

Personal checks or I.O.U.'s are placed in petty cash funds. Vague reasons are given for bad debt write-offs. Collections decline as a percentage of what is due. Records are rewritten, allegedly for reasons

of neatness. Inventory shortages are noted—perhaps indicative of fraudulent purchases, unrecorded sales, or pilferage.

An accounting clerk refuses to relinquish custody of his records during the day and works overtime regularly. Standard usage rates for raw materials are exceeded. A spurt in sales returns is noted—possibly indicative of a concealment of accounts receivable payments.

Books are not kept up to date. Sensitivity to routine questions is abnormally high. Customers complain about errors in their statements. An identical second endorsement is on several payroll checks—a possible clue that employees are dealing with a loan shark, who may ask repayment in the form of merchandise. Gambling by an employee is noted—as is his association with undesirables.

The pattern of cash receipts is different during the absence of the employee normally handling them. Collectors or creditors ask for a given employee. A clerk is inclined to cover up inefficiencies. Vacations are refused and promotions shunned—perhaps in fear that irregularities will surface.

Company products appear in outlets that have never placed orders. Drivers take too much time to make deliveries. The tool replacement rate is inconsistent with production loads. Containers of desirable parts or merchandise are frequently damaged. An employee purchases his noon meal at the company cafeteria, yet always brings a lunch box to work. Cartons are partially empty in an area where only full containers are supposed to be stored.

An employee goes to his car during working hours, loiters in areas other than his own department, is overly eager to show the gate guard his lunch box, approaches the gate too nonchalantly, or walks too fast or too slowly, walks too erect or too stooped, carries his arms rigidly, or seems overdressed.

See page 77 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 2, 8, 14, 16 in Appendix I.

## Insurance fraud

Because insurance so often plays such an important role in business and in the financial planning of countless individuals, the reported increased presence of fraudulent practices in this area ought to be of special concern. Discussed first are frauds and borderline practices whose primary victims are insurers. Second, abuses directed at the insured—whether businesses or individuals—are explored.

### How are insurers defrauded?

False life, health, accident, and casualty claims are major headaches to insurers. Among the types of persons involved in filing fraudulent claims

are the claimants themselves, of course, plus often a "supporting cast" of doctors, lawyers, policemen, insurance agents and adjustors, "runners," owners of auto body repair shops, hospital employees, and tow truck operators. Frequently, schemes involve links with the organized underworld.

According to one estimate, about 10 percent of all claims filed with certain insurers are fraudulent. Besides the direct economic impact on insurers—approximately \$1.5-billion yearly—fraudulent claims result in such indirect victims as policyholders whose premiums, on average, may be 15 percent higher than would be the case in the absence of fraud. Innocent owners of establishments selected for fake accidents are defrauded into paying quick out-of-court settlements. And employers of those involved in fake auto accidents lose the services of such employees during their "recuperation period" as well as dish out sick leave benefits. Therefore, even though the primary target of false claims is the insurer, frauds of this type are really crimes against the public, too.

Of particular current concern are phony *auto-accident claims*, which seek compensation to cover any or all of the following: treatment by a physician or hospital; lost time from work; vehicle repairs; other accident-related expenses. Especially serious are large-scale fraud rings, such as those that have operated in several major cities and have involved hundreds of people. A typical scheme operates as follows:

- A scout, or "runner" (perhaps a tow truck operator), responds to an accident, and if it does not seem serious and if the victims seem unsophisticated, he tries to convince them to claim nonexistent injuries and to press for a large settlement from the other party's insurer.
- Police are sometimes induced by the runner to permit him to discuss matters with the victims at the scene.
- The runner, who may operate within an assigned territory, may assemble about 20 willing claimants and refer them to cooperative attorneys, who coordinate matters from thereon.
- The attorneys may prepare fraudulent lost-time statements, obtain inflated repair estimates from cooperative body shops, and channel victims to equally cooperative doctors, who may submit bills for dozens of nonexistent visits by, and treatments of, patients.
- The bulk of insurance proceeds usually are consumed by the attorneys, with the balance apportioned to physicians, body shops, runners, and the willing victims.

Operating in a New England city, one ring grossed \$1-million in fraudulent claims over a three-year period. Vehicles were deliberately wrecked and used as the basis for several different accident reports, and damaged front ends were put on otherwise undamaged vehicles.

In another city, auto-accident frauds reportedly involved over 100 attorneys, 75 runners, and 50 physicians. The following circumstances pertained to a scheme in a midwest city:

1. The rate of bodily injury claims there was more than twice that of the state as a whole, and settlements averaged 50 percent higher than in adjacent towns.

2. A city-owned bus company complained about an estimated 100 runners allegedly helping ambulance-chasing attorneys to collect millions annually in false and inflated claims. Within two years, claims reportedly jumped to \$1.2-million from \$600,000.

3. An insurer of a cab company went broke when faced with a similar claim hike.

4. Another insurer raised its rates 25 percent and estimated it would have to increase them another 42 percent to defray costs of doing business in the city.

5. The largest insurance company in the city declared that a single law firm had handled more than \$1-million in personal injury claims against the insurer in less than a year.

6. Insured and insurers charged that insurance fraud has been rampant for 20 years in the city because the legal and medical professions have been reluctant to police themselves.

#### Frauds against policyholders

In return for \$36 and a little ingenuity, racketeers and con men have set up numerous "paper" insurance companies over the last several years at offshore locations, according to an investigator of alien insurers. Sometimes manned by former U.S. insurance executives who were eased out of their former jobs because of mergers or other reasons, phony companies have victimized hard-pressed businessmen by selling them surplus line insurance. After collecting premiums resultant from an intense sales campaign, the perpetrators vanish with the premiums which, when combined with unpaid claims, amount to millions of dollars. The disreputable among alien insurers also engage in the advance-fee racket, discussed earlier, as well as engage in various forms of securities fraud.

Thanks to what is frequently referred to as inadequate state regulation of domestic insurers, a number have gone out of business (especially casualty insurers) or have suffered severe setbacks as the result of various fraudulent or borderline practices, including the creation of fictitious assets, sale of bogus insurance policies to reinsurers, entry of inaccurate accounting figures, preparation of false input data for computers, etc. In some cases, beneficiaries of life insurance policyholders have not received a penny, or the insured have been unable to obtain proceeds for the cash value of their policies.

According to one report, those insurers which are authorized to write only a narrow line of insurance within a restricted geographical area broaden their activities without authorization and then "have collapsed at the drop of a claim form." And unscrupulous holding companies have drained millions from their insurance subsidiaries through various fraudulent or close-to-the-line stratagems. To cover up such activities the same asset may be transferred from insurer to insurer to coincide with audit periods.

#### The indicators of insurance fraud

Tip-offs of false claims include the following:

- The person who "fell" or was in the "accident" expresses a desire for an expeditious settlement and, with apparent thoughtfulness, adds that he does not want to put anyone to a great deal of trouble. Besides he has an out-of-town appointment and wishes to conclude matters in a simple fashion before leaving. His real objective, of course, is to avoid a thorough investigation.
- The claimant seems to have retained an attorney with exceptional speed.
- Claimant appears extraordinarily knowledgeable about the claim-adjustment process. He uses the right words and phrases.
- An injured claimant is treated at a hospital operated by his physician.
- The doctor fails to itemize his bill despite requests for this.
- The injured parties are all treated by the same doctor.
- An attorney offers to include an adjustor on his Christmas list or otherwise tries to probe the extent of the adjustor's integrity.
- Attempts at contacting the employer of someone who is claiming lost time at work are repeatedly unsuccessful.
- The signature of the claimant differs significantly on various documents he supposedly prepared. This may indicate that a dishonest attorney may be diverting insurance proceeds to his own use.
- The claimant uses a lawyer-physician combination that has been implicated in prior suspected frauds.

Regarding victimization by "paper" insurance companies, any offshore insurer should raise a red flag. See the tip-offs listed on page 28 for advance-fee schemes.

As for efforts by holding companies to milk the assets of insurance-company subsidiaries, one tip-off might be the transfer of a blue-chip asset from the subsidiary to the parent company, which replaces it with something of less quality. Or the parent might purchase real estate and sell it to the subsidiary at a substantial markup, which reflects alleged improvements. Or a cash-rich insurance subsidiary declares a hefty dividend to its shareholders—i.e., the parent.



See page 80 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 5, 9, 14, 16 in Appendix I.

### Receiving stolen property

One of the most underrated and infrequently prosecuted of all criminals is the receiver, defined as one who knowingly purchases, sells, or otherwise traffics in stolen merchandise. A fence is a professional receiver, who performs a middleman function by funneling stolen property he purchases from thieves to various outlets which sell the goods to the ultimate consumer. (Thus the meat-store owner who purchases a hijacked load of beef from a contact is a receiver, while the "contact" is the fence.)

However, the importance of the role of fences and other receivers has been spotlighted by the Senate Select Committee on Small Business, whose chairman put his thumb on the nub of the problem: "Not until the fence's ability to market stolen goods is blunted will we ever be able to stay that one jump ahead of the thieves plaguing businessmen." Without the pivotal role that fences and other receivers play in the criminal system for distributing stolen goods, most incidents of burglary, hijacking, and pilfering would become unprofitable and almost academic exercises because the means by which to market the goods would be crippled. This observation rests on the well-proven fact that the objective of most thieves is not the merchandise per se but the cash for which the merchandise can be sold.

However, as one thief has testified, the problems created by receivers are largely the result of some businessmen growing fat at the expense of many other businessmen: "The distribution of stolen property is not easily achieved without connections with so-called legitimate businessmen to [whom to] funnel the . . . stolen property that is taken each day, so that it can be resold to legitimate consumers through an outlet that is seemingly legitimate."

#### Operations of receivers

Excerpts from recent testimony on fencing before the Select Committee on Small Business shed considerable light on the scope, methods, and importance of fences and criminal receivers generally:

**Chairman:** Now are there master fences in New York City? Chief fences, big fences, whatever you want to call them?

**Witness:** . . . well, off hand, I know about 4 big fences that can come up with \$100,000 in cash, no sweat. [Rule of thumb: for a fence to earn \$100,000 he would have to handle from \$750,000 to \$1-million in stolen merchandise.]

**Chairman:** Four big fences that can come up with \$100,000 in cash.

**Witness:** Yes. On the okay level, without even seeing the stuff. Without even seeing it. [Translation: master fences do not come into physical possession of, nor inspect, the goods. They are "arrangers" for the distribution of the merchandise, not its handlers.]

**Chairman:** Now, who generally purchases the stolen property. . . ?

**Witness:** Legit people. You know, stores.

**Chairman:** Stores do buy?

**Witness:** Yes. Then you got big stores, department stores, you got cut-rate stores.

The following statement, given to the Committee by an assistant district attorney of an eastern city, is particularly enlightening:

"'Mack,' as we will refer to this fence, is a gnome-like man in his sixties who maintained three electrical outlet stores. . . . An analysis of 'Mack's' books and records revealed that in 1970, 'Mack' purchased stolen electrical construction materials valued at approximately one-million dollars, an amount which must be multiplied in terms of the loss to the construction industry in labor costs, delay, and replacement of the stolen property.

"'Mack's' operation is typical because, as a fence, he would only deal in his speciality, that is, electrical construction materials. . . .

"In addition, 'Mack' was also typical in that he acted as a catalyst in causing certain materials to be stolen at certain times. When he was overstocked in certain materials, he would so advise thieves. . . . But when one of his clients needed particular materials, 'Mack' would put out a 'contract' for the theft of the particular items, and take great pains to see that his customers, who paid cash, would receive the property at the time requested.

"Generally, there appears to be a hierarchy among fences. Some fences may deal directly with a thief and openly sell to a buyer. This type of fence . . . deals primarily with small amounts of property. He is the 'neighborhood connection' . . .

"Some fences may never see or touch the stolen property. . . . Their transactions are all consummated over the telephone. This type of fence is known as the 'master fence' . . .

" . . . organized crime figures will very often 'stake' a fence with a large sum of money if he will use his connections to move stolen property for them. This is usually the relationship that exists since a fence, especially a 'master' fence, of necessity has the required legitimate contacts and travels in the highest business circles."

Fences and other receivers deal in a vast array of merchandise: securities, steel, credit cards, forged or stolen identification documents,

office equipment, meat, shavers, airline tickets, shoes, clothing, and appliances of all kinds—to name a few. As the Los Angeles District Attorney has testified:

"... much of this merchandise also goes to . . . liquor merchants who rely on access to stolen liquor and cigarettes to increase their profit margin, jewelers who mix stolen diamonds in with stock which they have legitimately purchased, restaurateurs who serve stolen meat. . . .

"Because of his [dealer in heavy equipment tires] ability to obtain stolen . . . tires—which sell for as much as \$3,500 each—this individual enjoys a net profit annually of 18 percent of his gross, compared to an average 4 percent net profit among legitimate dealers.

"Other outlets for stolen property in Los Angeles County include weekend 'swap' meets which attract hundreds of people and where knowledgeable buyers can contact a fence and actually purchase stolen property with relative [freedom] from surveillance."

Ethical businessmen are subjected to a double defeat: (1) they suffer the loss of stolen goods and endure the many follow-on dislocations (production and advertising schedules may suffer, sales may be lost or delayed, insurance premiums and deductibles increase, etc.), and (2) they may have to compete with firms which achieve a substantial and illegal competitive edge by purchasing cut-rate goods from the criminal distribution system.\*

#### Fences and other receivers—the danger signs

Many of the following tip-offs should be evaluated from two perspectives: (1) the possible intentional or unwitting decision of your company's purchasing agent or buyer to deal with fences (for no other reason, perhaps, than to impress management with his or her skill at obtaining bargain rates); (2) the possibility that competitors are dealing with fences.

1. Management sets unrealistically high performance standards for buyers and purchasing agents.
2. Salesmen report that customers are buying a competitor's products and selling them at abnormally low prices. Or customers substantially reduce orders yet seem to continue to sell your products at a brisk rate.
3. Salesmen or customers report your product is being sold at abnormal discounts or through unusual outlets.

\* Additional details about fences and other receivers are capsuled in *Cargo Theft and Organized Crime* (October 1972), available from the U.S. Government Printing Office (70¢). See also *Criminal Redistribution Systems and Their Economic Impact on Small Business, Part I* (hearings before the Senate Select Committee on Small Business, May 1-2, 1973). Available from the U.S. Government Printing Office. \$1.95. Stock Number 5270-01935.

4. An unusual drop in unit costs for purchases is associated with a switch from one supplier to another, whose address turns out to be an answering service.
5. A neighborhood outlet opens for business and then closes after a few weeks or months.
6. An outlet receives deliveries which appear inconsistent with the nature of the business—e.g., bulky packages delivered to a coin shop.
7. Goods delivered to a store are unloaded from the back of a car.
8. A retailer seems to have a perpetual sale. Or a store remains in operation after a going-out-of-business sale.
9. Supplies are delivered to your firm in cartons whose labels have been removed by a razor.
10. Someone offers you an incredibly low price—in return for cash.
11. Employees are discovered to be operating a side-business similar to your own—and you are experiencing a particularly severe pilferage problem.
12. Wholesalers start complaining about losing business to "retailers."

See page 80 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 2, 8, 16, 18 in Appendix I.

#### Securities theft and fraud

As of mid-1973, some 400,000 lost, stolen, or missing securities certificates worth \$5.3-billion were listed in the computerized system of a company established to enable members of the securities and financial community to validate, within seconds of entering an inquiry, the authenticity or status of securities they handle. Since the 130 subscribers to this system represent, by volume of transactions, only 10 percent of the securities industry, one observer places the total value of all outstanding lost, stolen, or missing securities at \$50-billion. However, many other responsible sources assert that this figure is much too high. Whatever the true total may be, there are an alarming number of unaccounted securities, which are potentially available for a vast array of fraudulent uses.

#### What are the techniques?

An onslaught of securities thefts followed a breakdown in managerial control over the back-office operations in the securities industry. Those who executed thefts have ranged from clerks acting independently to those who rob messengers and the mails to well-organized rings, one of which was reported as stealing about \$5-million worth of stocks monthly.

Since the vast majority of thefts involve the cooperation of dishonest employees, elaborate security precautions have been implemented in

many brokerage houses. However, thieves have sometimes managed to keep one step ahead of hardware-oriented measures. In one instance, securities were treated so that an alarm would ring if someone tried to leave the premises with concealed certificates. The firm discovered, to its chagrin, that certificates could be stolen by placing them in an envelope and dropping them in a mail chute located on the premises. When this was corrected, the outside mail box, in which the firm deposited its bagged outgoing mail each day, was stolen.

To avoid detection of thefts, cooperative employees (often pressured by loan sharks) can warn their outside contacts about impending audits. In one case, a brokerage house employee alerted those who possessed ABC Bonds stolen from the firm that an audit was scheduled covering securities in the A to M range. ABC Bonds were returned and stolen N to Z securities substituted.

A particularly effective theft method entails stealing a 100-share certificate of XYZ Co. from the vault of Broker 1 and substituting that stock for a 100-share certificate of XYZ taken from the vault of Broker 2. Broker 1 reports the theft—if and when discovered—but the certificate is safely tucked away among the securities of Broker 2, who usually does not detect the substitution because auditors frequently only determine whether the number of shares and/or certificates noted on the inventory records corresponds with the number counted during the physical inventory.

Occasionally, a brokerage house employee will give a fictitious name to the transfer agent for stock that is supposed to be "delivered out" to a customer, thereby diverting the security into the hands of thieves.

In addition to the above methods, securities may be stolen as the result of house burglaries, misdirected mail, or pure carelessness (thrown out in the trash).

When the supply of stolen securities is added to the number of bogus and counterfeit certificates now in circulation, there is no shortage of raw material for the commission of widespread fraud, estimated at billions of dollars annually.

Of increasing concern is the tactic of those who direct that their purchased stock be delivered to a home address, receive the certificate but tell the broker it did not arrive, obtain a replacement, present the first certificate as collateral for a loan, sell the replacement certificate, and default on the loan.

Schemes may involve stolen stock in combination with counterfeit and bogus securities. A relatively straightforward case involved nine Americans and seven Europeans, who were charged with trying to fence \$3.4-million in stocks and U.S. Treasury bills stolen from the mail, a brokerage house, and a bank. The group also possessed \$14.5-million

of counterfeit corporate bonds. Some securities were sold to banks, others to individuals. Stolen certificates were used as collateral for a loan from a bank in Central America. When the bank learned that the certificates were stolen, it reportedly accepted as replacements \$12-million in what turned out to be bogus securities, including worthless notes and shares of the infamous Bank of Sark.

This case indicates the international flavor of many securities frauds, which, according to one source, involve a loose-knit syndicate of about 200 confidence men, among others, and several hundred suspect companies. As one investigator commented, "There is not a developed country where a major stock fraud artist doesn't have a contact." A single scheme involving three or more countries is not uncommon. The address book of an American specializing in securities fraud contained phone numbers of contacts in Arizona, California, Colorado, Florida, Illinois, Iowa, Michigan, Nevada, New Jersey, New Mexico, New York, Oklahoma, Texas, Utah, and such foreign countries as England, Canada, and Switzerland.

A same-name fraud involved securities registered in Panama bearing a name almost identical to a respected Canadian company, as if the Panamanian firm were a subsidiary. An inquiry from a broker in England, where some of the Panamanian securities were tendered for sale, triggered an investigation revealing that the securities were also being presented to banks in Germany and Spain. The securities were Logos, having no relationship to the legitimate Canadian firm. The principal perpetrator was traced to Portugal, and the fraud was stopped.

Bogus and stolen securities are used to shore up the balance sheets of marginal firms to enable them to qualify for loans or lines of credit, to meet asset requirements of state regulatory agencies, or to establish an inflated sale price for a prospective buyer of a business. Sometimes these securities are rented for such purposes.

Organized crime not only commits many securities frauds itself but also facilitates frauds of others by supplying them with needed securities through an efficient fencing network. For example, within 48 hours after \$21-million of stolen securities and travelers checks had been turned over to a mob fence, some checks surfaced in New York City, Las Vegas, and in several towns in New Jersey. Shortly thereafter securities were either cashed or presented as collateral at banks in Pennsylvania and Florida. Eventually, other securities appeared in San Diego, Houston, Oklahoma City, Phoenix, Los Angeles, Boston, Mexico City, Chicago, and Toronto.

Regarding a large quantity of stolen securities, a mob-connected fence (who earned about \$1-million yearly) cautioned a friend to obtain stamping equipment because "you need a stamp either over or under

her signature, authorized and guaranteed duly witnessed, with that red and blue——." Without this forgery, advised the fence, "if the brokers don't know you they'll call the FBI," but when forged, the security "automatically becomes a negotiable instrument."

An organized crime investment specialist, who at the time of his arrest "had over \$1-million and had access to an additional \$4-million of counterfeit bonds and certificates," told the Senate Permanent Subcommittee on Investigations, in 1973, how he used stolen securities to establish margin accounts with Swiss brokers in order to buy securities for purposes of arbitrage—a technique whose profitability was enhanced by his conspiring with members of the U.S. financial community to avoid the interest equalization tax. "You must also understand that in the trading of arbitrage I have traded as much as \$5-million of securities in a single hour."

He continued: "I have been able to accomplish trades and purchases [in Switzerland] of securities totaling millions of dollars with no more than \$100,000 cash. My margins, at times, exceeded 95 percent of the purchase price of the securities, requiring only five percent of my own funds; and many times that five percent was not even cash, but stolen securities."

Regarding the basic motive for establishing Swiss bank and brokerage accounts, the investment specialist for organized crime commented as follows:

"The whole process obviously is created for cleansing of funds earned illegally, creating the conduit of taking dirty money from the United States, putting it through the 'washing machine' of respectability through Swiss banks and brokerage firms, and then funneling it back through various enterprises and corporate structures both in Europe and the Bahamas. These conduits then funnel the funds back into the United States to be placed in the hands of attorneys, trusts, and corporate structures, thereby infusing the monies into legitimate businesses. A circle is completed. . . ."

"All banking [in Switzerland] can be done secretly without the use of a numbered account. Swiss banks are allowed to trade in securities in the United States under a bulk-type of account when they are trading for their own account, and then segregate the proceeds from the trades at their own free will. There is no way under the present banking system for you to identify the various participants or actual owners of securities that are sold in this country."

\* Aided by time zone differentials, he would buy 10,000 shares of ABC at \$100 per share in Zurich with the knowledge that the stock closed at \$104 per share the day before in New York. He would sell ABC for close to \$154 per share when it next opened in New York: "for less than five minutes of work, you have made approximately some thirty odd thousand dollars, assuming you can evade the interest equalization tax."

Stolen or counterfeit U.S. Treasury bonds are placed as loan collateral with foreign banks. When the loan is defaulted, the bank sells the securities, which often wind up in the United States. "They end up in the hands of unsuspecting customers of various brokerage and banking firms. . . ."

Turning from stolen securities to worthless securities and how they are converted into cash, one begins to probe the submerged part of the iceberg of which securities thefts constitute only the top. Recently concentrating in the New York, Miami, Fort Lauderdale, Salt Lake City, and Los Angeles areas, groups of stock manipulators have given bogus securities, or commercial paper, a facade of value and respectability and have converted valueless paper into hard cash. As a Government report has concluded:

"Perhaps the most significant feature of phony stock manipulation schemes is the tremendous amounts of money manipulators are able to amass in short periods of time. Such large sums, quickly obtained, enable them to facilitate their operations by offering substantial bribes to men in positions of financial responsibility and trust who are charged with the duty of protecting the public from such fraudulent schemes.

"Individuals involved in fraudulent schemes . . . are extremely mobile, dealing and manipulating across State and international lines, bankrupting small banks, insurance companies, and stock brokerage institutions."

The techniques by which this can be achieved are spelled out in a compact Government publication which is must-reading for all businessmen: *Conversion of Worthless Securities into Cash*.<sup>\*</sup> It focuses on a foundation whose brochure states, "In the truest tradition of America, this Foundation has had a remarkable growth. To many closely associated with its progress, a miracle has occurred. Its financial strength is now solid with assets exceeding twenty million dollars. . . . We invite others to join hands with us in reaching those plateaus essential to the survival of civilization." The real miracle was that any of those who did "join hands" with the foundation survived. Despite a \$20-million balance sheet, the foundation's bankruptcy receiver was able to report assets of only \$15,000 and liabilities of \$26-million. Nonexistent assets, imaginary financial statements, a corrupt auditor, a brochure that is (at best) fiction, adroit exchanges of worthless assets for worthless assets, a negligently prepared credit report, and a cast of characters including finders, promoters, scalpers, a transfer agent specializing in worthless securities, and market-makers—all these contributed to "one of the largest phony securities operations ever to come to light in the American business community."

\* Prepared by the House Select Committee on Crime, 1973, 70 pp. Available from the U.S. Government Printing Office for 50 cents. Stock Number 5271-00339.

Bogus securities have also been created (1) to establish banks, insurance companies, and mutual funds, and a host of other enterprises and (2) to inject a semblance of life into a variety of empty corporate shells.

The themes and variations of securities fraud seem endless. The following are among those not already mentioned above:

- The XYZ Trust Co. "does hereby irrevocably guarantee the interest and principal payment of this bond. . . ." The bond is counterfeit and the Trust Co. is not a bank but a rented office with a telephone and Telex located in a state that does not regulate how and by whom the term "Trust Co." can be used.

- Oil and gas interests are available. The promoter gets a 10 percent commission on his sales. The buyers get oil—but not in appreciable quantity or of marketable quality.

- An executive sold his yacht in return for securities of a corporation located in the Bahamas whose assets, in turn, were securities of a non-existent U.S. corporation.

- Customers of a brokerage house purchased bonds but never received them, or sold securities and never obtained their money.

- A broker creates an artificial demand for a stock through fictitious purchases, often through the use of dummy accounts.

- Forged hypothecation agreements are presented to help explain why securities (stolen) offered as collateral are not in the name of the borrower.

- The certificate number of a stolen stock is carefully altered before being used in a fraudulent transaction.

- A legitimately purchased 1,000-share certificate is presented as collateral for a loan. After the bank verifies the certificate's authenticity, a counterfeit bearing the same name and number is substituted.

#### Tip-offs of securities theft and fraud

1. Stock offered as loan collateral is in a street name.
2. Securities are offered for private sale at a substantial discount from currently quoted prices—perhaps the desire to quickly liquidate an estate is given as the reason for the low price.
3. The balance sheet of a previously poor credit risk shows a sudden and substantial increase in securities listed as assets.
4. Financial statements of a firm contain highly questionable entries, such as substantial mining interests, which, according to "some sources," are valued at \$X; or \$100,000 worth of notes of an obscure company appear in the asset column.
5. No one has seen, nor knows anyone who has seen, the premises of the hitherto unfamiliar company you are thinking of dealing with.

6. The proper number of shares is accounted for by an inventory check but the number of certificates on hand does not correspond with records.

7. The transaction involves a numbered Swiss bank account or a secretive foreign trust.

8. The transaction involves trading through a bulk-segregation or omnibus account established here by a foreign financial institution.

9. The insurer, bank, or mutual fund is located offshore.

10. A relatively obscure stock displays an unexplained increase in trading activity.

11. A certificate is characterized by one or more indicators of counterfeit paper:

- One-color printing. Color is muddy.

- Absence of a human figure.

- Border lines are broken in a few places or poorly aligned.

- The colored dots (planchettes) are missing, or, if present, can be erased or appear in precisely the same location on several certificates.

- The three-dimensional look is missing.

- The corporate name does not have a raised feel.

- Line work is not clear and distinct, and lines bleed into one another.

- Certificate numbers are not clear and distinct.

- Misspelling occurs.

12. A credit report on a company does not indicate that the figures cited in the report have been verified, or, if so, to what extent.

13. The monthly statement from the broker does not indicate that a security held in street name was "delivered out" to you as requested.

14. The potential borrower who is offering stock as collateral gives a somewhat tortured explanation of why he cannot produce satisfactory identification documentation.

15. A security is issued by a company whose name is almost, but not quite, identical to a respected firm.

16. The assets of an unfamiliar firm are principally comprised of obscure securities.

See page 82 and Chapter VI for countermeasures. Regarding sources of assistance, see Nos. 1, 4, 8, 14, 15, 16, 17 in Appendix I.

## Basic causes and overall policies

Specific countermeasures for white-collar crime, such as those noted in the next chapter, can be more intelligently devised and can achieve better results (1) when implemented by those who are aware of some of the causes of white-collar crime and (2) when reinforced by the types of policies and procedures discussed below.

### What causes white-collar crime?

Some white-collar crime is attributable to those who are simply "rotten apples." These are the people who seem to have an inborn predisposition to defraud whenever the slightest opportunity presents itself. Fortunately, individuals of this type constitute a small minority and account for a small proportion of internal dishonesty.

Some persons, while initially honest, become subjected to pressures originating outside the firm and resort to various forms of dishonesty. Such pressures include unusual and sudden family expenses (extended illness, for example), unsuccessful stock market speculation, gambling debts, loan shark involvement, problems with a side-business, a drug or alcohol problem, or just plain high living. Dishonest acts may be rationalized in a variety of ways—the company can afford it; the firm allows for a certain amount of dishonesty; the business can always raise prices and, in any event, insurance will take care of the losses.

Another group of employees—usually larger than the previous two categories—are diverted from ethical behavior by various on-the-job irritations: low and inadequate wage or salary, resentment against the company for alleged unfair or inconsistent policies, inordinately severe disciplinary actions, substandard working conditions, or a deep-seated feeling of not being appreciated by superiors.

In one case, a hospital employee reported that his salary was so low that he was actually expected to steal from supplies to supplement it. At one company, lower-ranking employees were told to fraudulently inflate their expense accounts so as not to show up the fat accounts of top management. Or access to company materials and services for personal use are granted to executives as a reward for extra effort, as a bonus for performing an unpleasant task, or as a peace offering to salve defeats in policy battles or status tiffs. When this type of atmosphere

develops, especially in conjunction with loose controls, employees are, in effect, extended an open invitation to pilfer, embezzle, etc. A survey of businessmen's ethics highlighted the "many pressures for unethical conduct" and noted that "industry environment" was considered by respondents as "more closely related to dishonest behavior than is the need for money."

In effect, what can happen is that, in contrast to a company being victimized by a few employees who were evildoers from their first day on the job, the firm itself subjects initially honest and well-motivated persons to a number of subtle and not so subtle pressures, so that misconduct is fostered, if not encouraged or even demanded, by "the system."

### Key management policies, controls, procedures, methods

Management must squarely face this crucial question: Is internal dishonesty the result of a few bad apples that exist in an otherwise sound barrel, or is the barrel itself contributing to the contamination of the integrity of its contents? The answer requires an evaluation of basic policies, procedures, and controls—such as those briefly noted below.

#### The role of leadership

Strong evidence supports the contention that sound leadership methods constitute the most essential precondition for an adequate level of integrity within the firm. According to an authoritative survey, "Close examination of our data reveals a tendency in every age group, company milieu, and management level for a man to accept the values of his superiors. This tendency . . . should be acknowledged by every administrator as a part of his power for good or evil."

When asked to list those influences that lead executives to make unethical decisions, survey respondents put the behavior of their superiors at the top of the list. Conversely, when asked what influences them to make ethical decisions, the behavior of superiors ranked second; in first place was one's personal code.

Almost anyone who has worked within the framework of an organization will agree that there are individuals who perform at high levels of integrity no matter what pressures are exerted on them by internal or external sources. At the other end of the spectrum are the very few who are willing to engage in misconduct whenever a reasonable opportunity comes along. In between are a sizable majority that, depending on the caliber of leadership they are exposed to, make or break the organization's reputation for integrity. These are the individuals who, in varying degrees, are most susceptible to leadership and are ready to go wherever the stream takes them. A good leader can control the direction of the stream.

A leader who is unduly authoritarian and demands from subordinates unquestioned loyalty to him, instead of to values, ideals, and standards, runs a substantial risk of inducing a mentality that equates integrity with whatever the boss says is right. Obviously, this is not to downgrade the value of *strong* leadership but to highlight that a good leader, rather than seeking to promote undying loyalty to himself, should attempt to promote loyalty to a set of values which he himself scrupulously adheres to and publicly espouses.

If a superior engages in misconduct and this is known to subordinates, a few of the latter may well seek to do the same thing, knowing that their superior cannot stop them without subjecting himself to exposure as well.

#### Performance standards

A not uncommon failure of leadership is the assignment of too much work or the establishment of unrealistic performance standards in relation to the quantity and/or quality of employees. This may pressure subordinates into falsifying records to reflect attainment of objectives that are, in reality, utopian under the circumstances. Once this practice begins, alteration of records for personal profit can be just a short step away.

A division manager, for example, is quoted as saying he is unhappy over "strong pressures for superior results which lead to a compromise of personal integrity in operations." Another manager has complained of how "one's own ethical will must be subordinated to interests at the top not only to advance but even to be retained."

#### Delegation of responsibility, authority, and accountability

Effective delegation of decision-making is not only sound management but also good crime prevention. When responsibility and accountability cannot be fixed, neither can blame—an appealing situation to the dishonest employee and an unwarranted temptation for the weak-willed. However, not much is accomplished unless there is also delegation of the requisite authority or power to fulfill responsibilities for which subordinates are held accountable. Lack of authority may foster a timidity among subordinates that manifests itself as an unwillingness to make decisions except by a complicated process in which so many participate in a given decision that no one person can be held responsible for it.

Finally, responsibility, authority, and accountability should be delegated to the lowest level of the organization consistent with sound decision-making. (However, overall responsibility for security matters is frequently delegated too far down the management ladder.) This tends to preclude an unhealthy *we/they* dichotomy—where the minority

"we's" are those in the upper and middle strata of the organization, where concern for integrity may be high but where significant delegation has halted, and the majority "they's" are lower-level subordinates who, because they have not been expected to assume significant responsibilities regarding integrity or anything else, develop a who-cares attitude that promotes dishonest behavior and, through peer pressure, affects new employees as well.

#### What about ethical codes?

A policy that merely dictates adherence to the letter of the law will prove insufficient to combat white-collar crime. Laws were never meant to constitute all-embracing guidelines for personal conduct. To set standards of conduct at a level where behavior stays just within the law is a policy that flies in the face of democracy, which is predicated on the ability of citizens to engage in self-regulation and self-restraint. In a democracy, laws alone cannot be regarded as even minimum standards to which employees should adhere. Legal provisions are appropriate to regulate only the most flagrant violations—but much more is necessary than admonitions to avoid gross misconduct if white-collar crime is to be reduced.

The common argument that ethical codes, as supplements to the law, cannot legislate virtue is irrelevant. Most would agree that a written rule cannot change a man's heart. However, ethical codes can be significant not because they will change the internal beliefs of individuals but because they can make it easier for good men to conform their external behavior to their internal ideals. As noted above, good men can slip into dishonest practices because of a defective work climate to which they are exposed. A properly formulated code of ethics can reinforce initial good intentions of employees and contribute to a climate where peer pressure is a positive, or at least neutral, force promoting integrity.

An ethical code tailored to the needs of the firm can serve as a norm of behavior to which new employees are educated by senior employees and are ostracized if they do not conform. Once implemented, the code becomes a standard on which sanctions can be used and by which behavior can be evaluated. The code becomes a tool for administrative control.

A common pitfall of ethical codes is that they are phrased in a manner which makes them little more than pious hopes and vacuous exhortations to "do good." Codes should not contain general statements but must supply *specific* standards for conduct in *specific* situations that might confront employees at various levels. The problem is not whether a realistic code is possible but whether top management will recognize its desirability and then implement and enforce it!



For example, the manual of one company states that every dishonest act must be reported and every dishonest act shall be disciplined. Conflicts of interest must be avoided in appearance as well as in fact. Investments in, or close friends employed by, suppliers must be revealed, as must dinners and entertainment paid for by suppliers or customers. Participants in an expense account activity are not permitted to authorize the related payments. What goes for one, goes for all (the inventory clerk as well as the president must present a pass when leaving the premises with packages).

#### Implementing basic controls and procedures

The decision of whether to implement controls and procedures by which to combat white-collar crime does not begin with a cost/benefit study but with an honest answer to this question: What kind of a company do you want? Hopefully, the answer is a company whose management sets and adheres to high standards and alerts employees and the public that the firm has a zero-tolerance policy regarding breaches of integrity. Once this basic course of action is taken, then the appropriate time has arrived to decide how to utilize most effectively the company's resources to prevent and detect white-collar crime. More often than not, such efforts turn out to be justified not only on the basis that management has a responsibility to society and is morally obligated to pursue them but also in terms of increased profits. In other words, efforts to combat white-collar crime can be regarded as a profit-center type of activity: they involve costs but also generate a return that can markedly improve the bottom line.

Measures to counter white-collar crime should seek to achieve the following objectives:

1. Minimize company exposure to individuals with a predisposition or motive to commit white-collar offenses. This can be achieved, for example, by appropriate screening of employees and by revising those personnel policies that cultivate a "get even" attitude.
2. Reduce available opportunities (securely store blank checks) and methods (apply the separation-of-duties principle) for white-collar crime.
3. Increase the probability of detection when frauds do occur, such as by conducting spot checks and unannounced audits.
4. Discipline those who are apprehended.
5. Obtain feedback to determine if promulgated countermeasures have, indeed, been implemented and are being properly followed by operating personnel. Failure to do this is widespread and negates an otherwise well-planned program. Countermeasures are easy victims of "field attrition," which occurs when operating personnel bypass

established procedures for convenience or other reasons. As someone interviewed for this report quipped, "There are three sets of security procedures: what they really are, what management thinks they are, and what is done by those who are supposed to apply them."

#### Screening prospective employees

Policies regarding screening prospective employees vary from that of the air cargo concern which fingerprints, photographs, and carefully investigates job applicants to the policy of a major computer manufacturer that conducts no screening whatsoever and relies exclusively upon on-the-job observation for weeding out unacceptable workers.

Although many publications provide details on how to screen and investigate applicants,\* the legal and regulatory provisions governing such procedures—and governing the employment-related actions that can be taken on the basis of the information gathered—are in such a state of flux that the safest course to follow is to check with counsel before making decisions in this area. The pendulum is still swinging in a direction where less and less is permitted with regard to preemployment screening and decision-making.

#### Separation of duties

Another critical fraud control is adherence to the separation-of-functions principle. More often than not, implementation of this antifraud measure will be more of a matter of administrative changes than of cash outlays. There are four facets to this measure:

1. No individual should have total control over every phase of any significant transaction or sensitive job. (Those who maintain inventory records do not participate in physical counts of inventory.)
2. Work flows should proceed from one person to another so that, without duplication, the work of the second acts as a check upon that of the first. (Merchandise for shipment is picked by one employee, taken to the loading dock by another, and checked onto a truck by a third—all of whose tallies should agree.)
3. Those who authorize the use of assets should not also be responsible for their custody. (The inventory clerk releases materials only upon receipt of an authorization from a department head.)
4. Recordkeeping and bookkeeping activities should be separated from the handling and custody of assets. (The accounts receivable clerk should not also open mail containing incoming payments.)

If a business is so small that there are not enough employees among whom to divide responsibilities in a manner that would otherwise be

\* For example, see Richard J. Healy and Timothy J. Walsh, *Industrial Security Management*, pp. 213-241. Available from the American Management Associations, 135 West 50 St., N. Y., N. Y. Price is \$15.75.



desirable, job rotation might be considered. Or assignment of dual responsibility for a given task could achieve the same purpose.

As with any control, the application of separation-of-duties could be carried to such lengths that it creates a counterproductive atmosphere of mutual distrust among employees or generates such a labyrinth of procedural red tape that various informal shortcuts are devised over which no controls exist.

#### Detecting white-collar crime—the audit and the computer

Despite repeated warnings to the contrary, too many businessmen still assume that a major purpose of ordinary examinations of financial statements by independent auditors is the detection of fraud. This is untrue. Such audits are for the purpose of enabling the independent accountant to render an opinion on whether the financial statements are presented in conformity with generally accepted principles of accounting and whether such principles have been consistently applied in the preparation of the statements covering the current period in relation to those of the corresponding preceding period. Discovery of fraud may well be a byproduct, but the normal independent audit cannot be relied upon to assure its discovery. As a publication of the American Institute of Certified Public Accountants points out—

“The responsibility of the independent auditor for failure to detect fraud . . . arises only when such failure clearly results from failure to comply with generally accepted auditing standards. . . .”

“If an objective of an independent auditor’s examination were the discovery of all fraud, he would have to extend his work to a point where its cost would be prohibitive. Even then he could not give assurance that all types of fraud had been detected, or that none existed, because items such as unrecorded transactions, forgeries, and collusive fraud would not necessarily be uncovered. Accordingly, it is generally recognized that good internal control and fidelity bonds provide protection more economically and effectively.”\*

Frequently, when smaller businesses engage outside accountants, the latter are told to perform limited work only—to see that the books are kept in accordance with the law, that expenses are charged to the right category, and that tax returns are filed properly. Financial statements are neither audited nor certified.

Thus misunderstanding of the outside auditor’s role and/or his underutilization can leave firms seriously exposed to undetected fraud. What is often required as a supplement is what might be termed the investigative operations audit. Such an audit attempts to (1) verify that promulgated procedures, controls, and policies are being followed by

\* Statement on Auditing Standards No. 1, p. 3.

operating personnel, (2) determine if there are problems or signs of developing trouble, and (3) probe for and then investigate possible irregularities.

For example, ABC Co. pays \$20,000 monthly to XYZ for the rental of construction equipment. A normal audit of ABC would, among other things, involve the comparison of bills received by ABC with the corresponding checks sent to XYZ. XYZ may even be sent a notice requesting that it verify the issuance of its bills. Everything checks out. Those conducting an investigative operations audit, however, might well pursue the matter further. Knowing that XYZ subcontracts millions of dollars of work to ABC, the auditors may want to confirm that the \$20,000 is, indeed, for equipment rentals and not a kickback. In an actual case where this situation prevailed, auditors did not find the alleged equipment and determined that the payments were payoffs.

Therefore, the investigative operations audit, which may be conducted by the internal staff or by an outside firm, helps provide management with feedback on the extent to which procedures and controls are being followed, serves to deter attempts at fraudulent activity, and constitutes an effective measure by which to detect fraud. Such audits can achieve maximum effectiveness when there is good communication with, and close cooperation among, the independent public accountant, the investigative operations audit staff, and the company’s security personnel.

Owners of very small companies can achieve a semblance of an operations audit by conducting unannounced spot checks of operations. This could be done in conjunction with the deliberate injection of errors into operations to determine if they will be detected and corrected in a timely manner. For example, resubmit paid invoices to determine if they are approved for payment a second time. Or have a package pass signed by someone not authorized to do so to see if the gate guard is on his toes.

Companies possessing computers have a potentially strong weapon by which to detect fraud. As one observer notes, “The computer is ideally suited for detection techniques because it has the potential for continuously checking the smallest details in random fashion with high frequency. . . . It is possible to design mechanisms that will detect unusual activities on the part of those who are served by the system.” Once an abnormality is detected, this could trigger an exception report.

For example, the computer could be programmed to detect the following:

- Out-of-character purchases or consumption of materials in a department (false purchases from a fictitious supplier?).
- Payroll expenditures in excess of what is known to be the true figure (embezzlement?).

- Abnormal spending patterns (stolen credit card?—see the credit card fraud section in Chapter V).
- Unusual trading patterns on stock exchanges (manipulation?).
- Customers whose credit limits have been exceeded by a given amount (scam?).
- Out-of-line ratios, such as raw materials usage in relation to units produced (high ratio might indicate theft of materials).
- Sudden fluctuations, such as in expense accounts (padding?) or in commissions (kickbacks?).

Computer utilization for auditing and detection purposes can be expected to increase substantially in the years ahead.

#### Reporting and prosecuting white-collar criminals

Company policies regarding reporting white-collar crimes to law enforcement and pressing for the prosecution of the offenders vary from invariable prosecution, except when requested otherwise by the court, to the procedure of a firm whose manager said, "It is my company's policy under no circumstances will we ever sign a criminal complaint against anyone who commits a criminal act against persons or property in our care." The following are among the reasons offered by executives for not alerting authorities to even serious white-collar crimes for which ample evidence is available:

1. The firm obtains restitution in return for a promise not to inform law enforcement.
2. An executive covers up his protégé's illegality so that chances for a promotion will not be tarnished.
3. The company covers up an embezzlement for fear it might be found actionably negligent in having not detected the crime sooner.
4. The company may be exposed to bad publicity and its image may suffer.
5. Executives are afraid of countersuits for libel, malicious prosecution, false arrest, etc.
6. The criminal justice process is so fraught with delay and other foul-ups that defense attorneys can prolong a case for two years or more and constitute a substantial drain on managerial time.
7. The end result of adjudication will be a mere slap on the wrist—an outcome not worth the trouble to achieve.
8. The firm is interested only in eliminating the cause of profit loss—that is, in terminating the employee, perhaps on a collateral issue (poor work, absenteeism, etc.).
9. Management feels sorry for the offender.

While there can be considerable sympathy for some of these reasons—such as Numbers 6 and 7—none is sufficient to support a no-prosecution

policy and many could, in themselves, be outright illegal. For example, in some states, failure to report a felony is itself a crime. And granting the offender a promise not to prosecute in return for restitution could, in some jurisdictions, be considered as compounding a crime, an act which entails criminal liability. Also, such a deal might enable the offender successfully to claim duress or to assert that his statement of guilt was not voluntary and thus is invalid.

Acceptance of restitution may also jeopardize a company's recourse to third parties, such as banks that cashed forged checks or outlets that received stolen merchandise. Finally, if an employer accepts restitution from, or conceals a crime by, someone covered by a blanket bond, the insurer may have grounds to deny future claims occasioned by this individual.

Regarding fears that the company image will suffer by pressing for prosecution, that court actions are too time-consuming and are bad for employee morale, and that the matter is best left to insurers and bonding companies, etc., reassessment of this view is long past due. For one thing, an overt, well-publicized drive by business to weed out and pursue prosecution of white-collar criminals would probably be regarded as a breath of fresh air by a public long since fed up with policies that cushion the consequences of breaches of integrity. As a committee of industrial security officers concluded, "Experience by those company leaders who have made the decision to prosecute shows that most of their fears never materialized."

Worries over the shortcomings of the criminal justice system should stimulate efforts to improve it, not avoid it through a no-prosecution policy.

According to those interviewed, both within and outside of law enforcement, company fears of suits charging false arrest, libel, malicious prosecution are greatly exaggerated and blown way out of proportion to the likelihood of their occurrence. This is particularly true when a little advance planning with your legal counsel and/or security advisor covers procedures relating to investigating fraud, interrogating suspects, gathering evidence, and determining its sufficiency.

Obviously, avoidance of a no-prosecution policy does not necessarily imply that all offenses should be reported to law enforcement, which does not appreciate being used as a collection agency. The intent of the offender and the dollar amount involved are common criteria on which the decision to press charges is based. Neither justice nor the problems of an over-burdened criminal justice system are best served

\* See, *Marshaling Citizen Power Against Crime and Modernizing Criminal Justice Through Citizen Power*, published by the Chamber of Commerce of the United States.

by reporting every petty offense (theft of pencils, paper, etc.) to police. Internal discipline should suffice in such cases. However, with regard to substantive white-collar crimes that can be documented with sufficient evidence, the best interests of the company and public dictate disclosure to law enforcement. The policy of one firm is as follows:

- Employees will cooperate in the investigation, detection, and prosecution of criminal offenders.
- Those committing crimes will be "aggressively prosecuted."
- Except for incidents of petty theft/dishonesty, all misdemeanors and felonies will be reported to police. However, police are not to be used as a collection agency.
- Restitution will in no way alter the company's above-stated policy to prosecute.

Advance planning in this area is essential. As noted by a group of industrial security specialists, when policies and procedures have been prepared ahead of time, "the company's best interests and its obligations to society can be scrutinized quickly and thoroughly. Frantic research and consultation can thus be replaced by a well-oiled, decisive machine attending to the merits of the case at hand thoroughly and with dispatch. Questions of prosecution, whether rare or frequent, large or small, will then create little or no disruption within the organization."

## Tailoring countermeasures to the crime

In contrast to the generally applicable policies and procedures outlined in the preceding chapter, the following controls and preventive measures zero in on specific frauds. However, the suggestions below are presented primarily for illustrative purposes. That is, they are far from complete and do not constitute an all-purpose remedy. They must be built upon and tailored to fit the needs and dimensions of a given business.

### Reducing exposure to bankruptcy fraud

Paramount to implementing a preventive program to combat scam operations is an awareness by your credit and sales personnel of the tip-offs described in Chapter III. Your sales force is often in a position to detect early warning signals first—such as changes in management, the overly easy sale, orders involving goods unrelated to the customer's business, etc.

Next review the dollar cut-off point demarcating when you order a credit check and when you routinely ship the goods. Bankruptcy planners often depend on high cut-off points.

Seek assistance of a credit-rating organization. Be sure that the service you receive involves something more than an unverified repetition of what the rated company told the credit bureau.

Review your policy on rush orders. If one arrives from a new account, do you omit a credit check?

If one of your salesmen alerts you to a change in management at a customer company, do you take steps to find out whom you are now dealing with?

Are customers assigned credit limits? If an unusually large order from a customer exceeds his limit, is shipment delayed until further information is obtained?

Is too much reliance placed on commissions for salesmen's compensation? If so, the sales force may be tempted to book orders despite strong suspicions about the customer.

Shipping department personnel can be instructed to report destinations that seem incompatible with the product being shipped. For example, a load of stereos destined for, or rerouted to, a machine shop should raise questions.

With regard to C.O.D. orders, instructions could be issued to drivers not to accept checks, even certified checks (the "certified" stamp can be, and has been, counterfeited).

### How to combat bribery, kickbacks, payoffs

Aside from ethical considerations, there are persuasive economic grounds favoring implementation of antibribery policies. For example, one company reported a sales loss of \$10-million during a ten-month period after its officers were indicted for bribery. Also, many courts have ruled in the negative regarding the question of whether a firm whose employee has given a bribe is entitled to collect for the work done or goods delivered. A recent decision indicated that a city could recover \$989,000 previously paid to a contractor because the contract had been legally voided by the taint of bribery.

#### Countermeasures applicable to business-government dealings

Management should prohibit gifts, no matter how small, to public officials. A gift of a bottle of scotch, a free pass, or a discount can be construed as directed at the same end as would be a "gift" of \$10,000. Businesses must ban all activities that are breaches of integrity in appearance as well as in fact. This policy should be publicized to all government-related customers. (Of course, this is applicable to private-sector customers, too.)

For its part, government should adopt a similar policy. For example, a letter circulated by a city's police department to various local businesses warned that officers are not to be given a tip, gratuity, or other benefit for the performance of duty. The department also implemented a policy of arresting not only bribe-takers but also bribe-givers. Such a policy should be encouraged by the business community.

Appropriate action should be taken to promote the establishment of a statewide commission, or, if necessary, a city-based agency, which is insulated from political pressures and whose primary responsibility is the investigation of official corruption.

Those in the professions can take immediate and resolute efforts to convert their often rusty disciplinary machinery into a well-oiled apparatus. Today, for example, the American Bar Association shows strong signs of doing just that, no doubt motivated by the harsh conclusion drawn from its own merciless examination of disciplinary procedures:

"The Committee has found that in some instances disbarred attorneys are able to continue to practice in another locale; . . . that lawyers convicted of serious crimes are not disciplined until after appeals from their convictions have been concluded, often a matter of three or four years, so that even lawyers convicted of serious crimes, such as bribery

of a governmental agency employee, are able to practice before the very agency whose representative they have corrupted. . . ."

Finally, solicitations of payoffs by public officials should be reported to appropriate law enforcement agencies.

Preventing bribes and kickbacks among those in the private sector  
Assure that receiving operations are separated from purchasing so that buyers, except through collusion with receiving personnel, will not be tempted to accept short deliveries in return for kickbacks.

Whenever practicable, competitive bids should be required. An executive from outside the purchasing department should review bids and inspect the quality of incoming goods to determine if specifications have been met.

Vendors should be informed that they will be granted a hearing if they have any complaints about the fairness or impartiality of purchasing procedures.

Purchasing agents and buyers should be required to report monthly regarding whether they have received any gifts, gratuities, or any other consideration from vendors and, if so, the details. Receipt of substantial gifts should be prohibited. Some companies forbid employees to receive any gifts, regardless of value. If management wants to allow acceptance of token gifts during the holiday season, vendors should be instructed to deliver them to the employee's business address, not to his home.

If a supplier other than the low bidder is selected, the reasons should be documented and sent to top management for review and approval.

Purchases from financially shaky suppliers should be prohibited without written approval of top management.

If possible, a "shifting system" for purchases should be utilized—that is, rotate purchasing agents and suppliers periodically.

Instruct employees to refuse and then report any demands by customers for payoffs. Policies pertaining to company gifts, gratuities, etc., to employees of other firms should be strict. If the granting of token gifts is permitted, reports should be required regarding the description of gifts sent, their value, and the recipients' names, titles, and office addresses.

When a buyer's taste, rather than a set of specifications, must enter into the purchasing decision—as in retailing—one way to discourage kickbacks is to set high standards of performance. Buyers whose lines sell are rewarded, while those whose purchases too often wind up in the bargain basement are dealt with accordingly. Indeed, objective, visible, and measurable performance standards for personnel throughout

\* American Bar Association Special Committee on Evaluation of Disciplinary Enforcement, *Problems and Recommendations in Disciplinary Enforcement*, June 1970, p. 1.

any organization can help preclude payoffs to superiors either for an undeserved promotion or for a cover-up of inferior work or short hours.

Development and monitoring of standard costs and/or usage rates can help deter kickbacks in some areas. For example, fairly accurate projections for fuel-oil consumption in relation to outside temperature can discourage your janitor or boiler room personnel from receiving kickbacks for accepting less heating oil than indicated on the bill from the oil distributor.

Policies should be developed to maintain an arm's-length relationship with unions and sources of financing.

Bribe payments are frequently recorded on the books as "commissions," and honest employees are occasionally duped into believing the payments are legitimate. Procedures should be developed so that management is alerted (1) when payments of "commissions" are not documented by the usual paperwork, such as canceled checks and invoices (often bypassed if a payment is illegal); (2) when the alleged commissions are not in line with widely recognized trade practices; and (3) when the payments are made through banks not used in connection with normal transactions of the business.

### Countering computer-related crime

An authority on computer crime has observed that the "possibility of exposure represents a real threat to the computer criminal, who has an investment in his professional life that would be ruined if his acts became known to his associates. For this reason detection should get at least as much attention from the system designer as prevention."<sup>\*</sup>

Development and effective implementation of such measures are particularly important when one considers the explosive growth in the number of computers, minicomputers, and remote terminals predicted for the next six years or so. The importance of appropriate countermeasures is further underscored by the pivotal role assigned computers in the heralded less-cash, less-check society, involving as it might the electronic transfer of funds. With this in mind, warnings regarding threats to teleprocessing assume added importance.

The number and sophistication of protective measures to combat various threats depend on several factors, such as the type of computer system (batch or integrated, in-house terminals or remote terminals, etc.), the sensitivity of the data (the seriousness of disclosure or alteration), the principal applications of the computer, and the reliability of the users. The following measures are illustrative of various types of controls.

<sup>\*</sup> Donn B. Parker, "Profile of a Computer Criminal," *Data Management*, July 1973. (Reprinted from *Investments in Tomorrow*, Stanford Research Institute.)

### Overall procedural guidelines

Separation of responsibilities is a basic control—e.g., programmers should not also be computer operators and vice versa, of course. A possible alternative is dual control over certain functions, an approach that would help avoid proliferation of narrow, uninteresting jobs. Rotation of programmers and operators among different programs and machines is a possibility, too.

Computer operations must be independent of other departments—e.g., EDP personnel should not have access to such assets as cash and inventories and they should not be in a position to authorize checks, purchase orders, shipping documents, and the like.

Require EDP personnel to take their vacations—hopefully during a period covering month-end activities.

Use of computer equipment, particularly when overtime is involved, should be by explicit permission and recorded as such.

After-hours processing should be subject to the same controls and procedures that apply during the normal work day.

Transactions that are listed as exceptions because they did not pass one or more control points should be investigated and resolved promptly.

Unexplained stoppages or interruptions should be logged, as should errors and action taken.

Physical and data security measures should be reviewed and audited periodically.

Access to computer facilities should be on a need-to-know basis.

### Program-related controls

Programmers should give written—not oral—instructions to computer operators.

Programs should contain a statement of ownership. This will help deter program thieves or, if not, will facilitate their later prosecution.

Controls written into programs should not be indiscriminately overridden. Overrides should be reflected in exception reports.

The responsibilities of writing, authorizing, modifying, and running programs should be separated whenever possible.

Threat-monitoring can be built into programs whereby suspicious deviations from standards or from normal patterns can be detected and recorded in exception reports. If, for example, the weekly payroll is \$150,000 but the total came to \$175,000, the program could cause this fact to appear in a special report.

EDP auditors should be consulted regarding appropriate tests and checks to incorporate into application programs.

When possible, divide responsibility between two or more persons for the maintenance of programs vital to those applications that could be fraudulently manipulated.

Maintain an audit trail of changes to programs. Documentation of programs should include a written record of all changes, reasons therefor, dates, authorizations, and cross references to other affected programs.

Program debugging should be separated from production activity.

Data controls: input, output, tapes, disks

Documents sent to the computer room for input processing should be accounted for—that is, the number sent is compared with the number received.

Corrections on source documents for input processing should be made by the originating department only.

Retain source records for a sufficient period so they can be related to output documents if necessary.

Vendor checks, payroll checks, and other negotiable items, as well as important forms (e.g., purchase orders), should be numbered sequentially.

Errors in processed data spotted by user departments should be promptly reported to the appropriate person or group within the EDP facility.

A method of controlling both the number of records processed and the accuracy of the processing itself involves the development of various totals. By determining the sum of purchase order numbers, stock item numbers, account codes, etc., and comparing such "hash" totals from time to time throughout the processing, various errors (omissions, duplicate processing, etc.) can be detected. Sequence checking can detect gaps in sequential numbering (as might occur in a check-writing run) and duplicate numbers can be located.

Output should be logged and stored in a secure fashion until routed to authorized recipients.

The tape and disk library should be either manned or locked, and accountability for the maintenance of the library should be clearly fixed.

A physical count should be made periodically of the inventory of all tapes, disk files, programs, and supporting documents.

How do you safeguard data communications?

Consider use of machine-readable cards or badges by which terminal users can identify themselves to the system. Collect such cards at the end of each work period.

Passwords and individual security codes used to identify terminals and their users, respectively, should be changed periodically.

Relatively new devices by which to identify terminal users are products enabling recognition of fingerprints and hand dimensions.

At sign-off, terminal users could be required to indicate when they will return to an active status. Entry attempts during the interim are thus flagged as those by possible impersonators.

If data are considered highly sensitive, scramblers and cryptographic devices could be used to safeguard the privacy of information during transmission.

The computer could be programmed to disconnect terminals after a specified period of inactivity by the terminal user. This helps guard against problems caused when a user leaves the terminal without signing off.

Devices and procedures are available to limit access of a valid terminal user to certain files only, to allow him to read certain files but not to modify them, etc.

Lockwords, which a terminal user can change at any time, can protect his file from being read by others.

The system could record unsuccessful attempts by terminal users to gain entry to the computer—e.g., invalid codes, requests to access files that the terminal user is not authorized to use, etc. Users could be automatically disconnected in such cases.

The audit of EDP operations

An essential component of an early warning system for the detection of potentially destructive frauds is the EDP operations audit. According to one source, "EDP is of such economic and procedural importance that probably no system other than the financial one should be more heavily audited."

Such audits may be performed by an internal group, by an outside organization, or both. In any event, the EDP auditor is a combination accountant-programmer-computer analyst and functions as a friendly gadfly or devil's advocate. He keeps the data-processing staff alert by probing, testing, and evaluating procedures, controls, audit trails, safeguards, programs, security, etc.

Since computers have become such an integral part of both small and large business enterprises, the American Institute of Certified Public Accountants has recognized that skills additional to those needed for audits of non-computer systems are necessary.

Members of the accounting profession across the country have been alerted to the necessity of acquiring these additional skills. Also, the AICPA provides training programs and sources of information as well as leadership by providing solutions to the computer audit problem.

Businessmen should check with their public accountants to determine if they are qualified to handle computer audits.

Audits should be scheduled at appropriate intervals. During the interim period, the EDP system and its personnel could be monitored

on a random basis, which would tend to keep the potential computer criminal off-balance and stimulate or heighten fear of detection.

### Combating consumer fraud, illegal competition, deceptive practices

The most effective measures by which businessmen can help prevent and combat frauds and other illegalities directed at consumers by the unethical are those undertaken through collective action. This approach is outlined in Chapter VI. However, there are a number of appropriate questions pertaining to internal operations that management can ask itself:

1. Are sales goals and other performance standards so difficult to achieve that they encourage use of deceptive practices against consumers?
2. Do complaints from customers receive intelligent evaluation in terms of how they might be indicative of borderline tactics?
3. If salesmen or other employees spot signs of consumer fraud within the industry, such as price fixing, are they instructed to report this to management, who in turn inform the proper authorities?
4. Are sales personnel so dependent upon commissions that they might be tempted to employ deception to secure an order?
5. Has the company supported and encouraged the creation of a consumer protection unit within the district attorney's office?
6. Does the firm encourage feedback from customers?
7. Does management from time to time take a firsthand look at operations to compare printed policy and procedures with what actually goes on?
8. If the firm employs a debt collection agency, are its tactics aboveboard?
9. Do management personnel attend the occasional seminars and conferences conducted by FTC regional offices to inform companies of the scope of the Commission's role?
10. Are informal opinions from FTC regional offices, or the more formal advisory opinions from the Commission itself, requested to obtain guidance on the legality of proposed action or practices contemplated by the company?

Regarding the competitive illegalities and deceptive practices aimed at those in business and the professions, illustrative countermeasures are as follows.

**Advance-fee frauds.** Do not seek loans through brokers who deal with offshore or other foreign lenders unless detailed investigation reveals the legitimacy of such sources of funds. If the institution offers

you a Dun & Bradstreet report purporting to substantiate its financial statements, obtain independently another D & B report and, if one exists, compare the two. Do not deal with any lender who is not prepared to provide an audited financial statement certified by an accountant whose integrity those in the profession are willing to confirm. Verify that the executives listed as board members of the lending institution really occupy such positions. If the lender is an insurance company not well-known to you, check it out with your state's insurance commissioner. If the broker is willing to put his advance fee in an escrow account until you receive the loan, verify that the bank where the fee will be deposited is itself not a dummy corporation created by the lender.

**Ponzi game.** Do not place your investment funds with someone whose reputed financial wizardry is based on hearsay, not documented proof. This proof should come from those who are not current clients of his. Any scheme that promises a fantastic return at minimal risk should be suspect. Verify claims made by the investment specialist that he handles the funds of various well-known personalities.

**Franchise-related frauds, including pyramid sales.** If you are approached about purchasing a local franchise or distributorship, obtain the names and addresses of a representative number of franchisees located near the area where you would operate. See them and become familiar with their operation, determine their success, their opinion of the franchisor, and their problems. Have nothing to do with a franchise whose major money-making appeal is the sale of other franchises or of lower-level distributorships. Determine whether the franchise product or service is a proven one, or just a gimmick or an appeal to a transitory fad. Ask to see certified profit figures of franchisees who operate on a scale similar to what you are contemplating. If you do not have experience, verify the type of training, if any, the franchisor will provide. Check the franchisor's reputation with a Better Business Bureau or other consumer protection organization. Consult a lawyer and have him review all aspects of the proposed agreement before you sign it.

**Land sales fraud.** Read the disclosures contained in the developer's Property Report. There is no law preventing someone from selling you a house lot that is a swamp or is nowhere near a water supply if this is disclosed in the Property Report. One purchaser bought a house lot—sight unseen—which turned out to be marshland; to drain it would require a Corps of Engineers permit, the granting of which is doubtful. All this was disclosed in the Property Report, which the purchaser did not read. Ask a lawyer to review the Property Report and the agreement you are expected to sign. Do not purchase the property without personally inspecting the site. Do not waive the cooling-off period



provided for in contracts. Do not base decisions to purchase on promises—only on what is spelled out in the contract you sign. Check with the Office of Interstate Land Sales Registration (HUD) to see if litigation is in progress against the developer.

Among the preventive measures that a land sales firm can take are (1) put salesmen on salary plus a limited bonus, which reduces commission-induced pressures to engage in deceptive practices and (2) instruct potential customers through advertisements to report any instances of sales puffery or other abuses to the company.

As for any of the many *ITC-related offenses* by which a company might be victimized, they should be described to key managers and employees, who should be instructed to inform top management whenever competitors are suspected of employing these anticompetitive or deceptive practices. Often these illegal tactics are not brought to management's attention because those in a position to first detect them do not recognize the practices for what they really are. If well-founded, reports of such illegalities should be forwarded to the proper authorities, just as should attempts at *tax fraud*.

### How to reduce fraud by credit card and check

Regarding credit card users, they should safeguard their cards as they would cash. They should not leave cards in desk drawers at the office or on top of bureaus at home or in the glove compartments of cars. When cards are lost or stolen, they should be promptly reported as such to the issuer. Upon receipt of a letter from an issuer indicating a new card was mailed recently, the user should respond immediately if the card has not arrived. Users should be alert to recognize the danger signals noted in Chapter III.

Acceptors of credit cards—especially their money-handlers, such as cashiers—can play a particularly critical role in preventing credit card fraud and in enhancing an establishment's reputation for being "no pushover":

- Check the dates on the card indicating when it becomes valid and when it expires.
- Refer to issuer's card cancellation bulletin.
- Note if the card appears altered or defaced.
- Compare the signature on the card with that on the sales slip.
- Call the issuer's special authorization number if any of the danger signals noted in Chapter III arouse suspicions—even if the purchase does not exceed the amount that would normally trigger such a call.
- Keep card imprinters and blank charge slips under tight control.
- Drop floor limits, in retail operations, to zero in selected departments occasionally.

- Keep cashier area well-lighted to discourage unauthorized transactions and to reduce errors.
- Select as a cashier someone who has basic intelligence and who has been well trained.
- Do not allow waiters to imprint charge slips.
- Investigate customer allegations of mishandled credit card transactions.

Issuers of credit cards have taken steps ranging from the simple to the highly elaborate to detect and deter fraud. Credit card applications, for example, receive close scrutiny. One issuer requires six to eight weeks to complete such investigations.

Shortly after cards are mailed, a follow-up inquiry is sent to determine if the card arrived. This simple procedure has cut fraud losses substantially, thanks to the timely information it elicits. To reduce even further the possibilities of theft from the mail, some issuers use registered mail when cards are sent to "high risk" Zip Code zones.

Various security features are built into cards on a periodic basis as an anticounterfeiting measure.

Computers of many card issuers can alert officials if a cardholder's spending departs from his traditional pattern; if so, the cardholder may receive a phone call from the issuer and be asked to confirm if his card is still in his possession.

Depending on an acceptor's fraud-loss record, he may be required to seek authorization—via phone—from the issuer before honoring a user's card in transactions above a prescribed amount. Computers of some issuers are able to relate the fraud-loss experience of an establishment to that of others in the same area. Where losses seem out of line, investigators may be sent to the scene. Card cancellation bulletins, which contain the numbers of stolen or lost cards, are sent to acceptors periodically and rewards are given to those who pick up unexpired cards listed in these bulletins. Experimentation is now under way with regard to computer-linked terminals that employ scanners to validate cards at the point of sale.

The policy of one issuer dictates that the prosecution of a credit card criminal is never dropped unless so requested by the court. Necessary expenses to transport witnesses to court in order to testify are often paid by the issuer. If a cardholder-witness refuses to testify, his card is revoked.

Finally, users, acceptors, and issuers all can check to see if their respective states have enacted legislation based on the model State Credit Card Crime Act, which resulted from an American Express Company-sponsored study of state and federal laws as they related to credit card fraud. The study determined that, because of major weak-



nesses and loopholes, many existing laws did not afford legal redress against the sophisticated techniques of today's credit card criminals.

Many measures are available by which to reduce exposure to check fraud. Some of the more common are listed below:

1. Safeguard blank checks and check-writing equipment.
2. Require identification before cashing checks.
3. Do not accept the following for identification purposes—Social Security cards, business cards, club cards, bank books, birth certificates, library cards, voter registration cards, letters.
4. Become familiar with the drivers license issued by your state and neighboring states.\* Certain built-in features—such as year of birth as part of the license number—may help you identify counterfeits presented for identification.
5. Compare not only the person's signature but also his appearance with what is indicated by his identification document.
6. Do not accept an undated or postdated check, nor one that is dated more than 20 days previously.
7. Require personal checks to be made out for the exact amount of the purchase.
8. Inspect the middle and back sections of check books, especially after a theft has been committed on the premises.
9. Witness endorsements. If the check is already endorsed, have it re-endorsed.
10. Safeguard bank statements and canceled checks. They reveal your bank balance, signature, and check design.
11. Do not cash checks written in pencil.
12. Do not prepare checks with typewriters utilizing "lift off" ink.
13. Be alert for the symptoms of check fraud noted in Chapter III. (To help create an awareness of such symptoms and appropriate countermeasures, the Travelers Cheque Division of American Express Company has recently prepared a detailed educational package that informs banks how they can conduct check and credit card fraud prevention clinics for their commercial customers.)

### Preventive measures for embezzlement and pilferage

Though the warning may seem overly cynical, it warrants repeating here: the weakest link is your most trusted employee because he is in the best position to inflict the greatest damage. This should be kept in mind during the application of such preventive measures as the following.

\* One source for this information is *Drivers License Guide*, published annually by Drivers License Guide Co., 1492 Oddstad Drive, Redwood City, California 94063.

### Illustrative embezzlement-related controls

**Cash Controls.** Receipt and disbursement of money should not be performed by the same department that handles the accounting therefor. Over-the-counter cash sales should be supported by prenumbered sales slips. Refunds in cash should be prohibited; returned merchandise should be inspected by a supervisor and a check mailed to the customer. The person depositing money at the bank should be different from the individual preparing the deposit slip.

Check cash receipts records against duplicate deposit slips. The employee who balances the day's cash against sales slips or cash register tape should not be involved in sales. Reconciliations of monthly bank statements should be done by an employee who does not handle the receipt and disbursement of cash. Small business owners should have bank statements sent to an address other than that of their businesses, should personally reconcile such statements, and examine all canceled checks and endorsements for clues to possible irregularities. Prenumber petty cash slips. Keep petty cash separate from other funds. Do not use petty cash funds to cash checks or for loans.

**Disbursements.** Pay bills by check. Payment authorizations should be invalidated (as with perforations) after payment so they will not be reused to support a fraudulent disbursement. Prenumber all blank checks and keep them under lock and key. Prepare checks with check-writing machines. Do not presign checks. Signed checks should not be returned for mailing to the person who prepared them. Compare canceled checks with invoices or vouchers regarding names of payees, dates, and amounts.

**Accounts receivable and sales.** Correspondence related to accounts receivable should be handled by an employee other than the one who prepared the monthly statements. All adjustments (credits for returned goods, pricing errors, etc.) should be approved by an executive not having access to cash. Collection of past-due accounts should be assigned to someone outside the bookkeeping department. Invoices should be numbered sequentially. Bad debt write-offs should be approved by an executive outside the bookkeeping or sales departments.

**Purchasing, receiving, accounts payable.** Separate receiving from purchasing and both from accounts payable. Prepare purchase orders on prenumbered forms. Send purchase order copies to receiving and accounts payable. Approve invoices for purchased materials only if accompanied by the purchase order and receiving report. Purchasing personnel should not be given responsibility for checking on the condition of goods received nor for storage and withdrawal of inventory.

### Typical pilferage countermeasures

Physical inventories should be taken regularly and by a person not connected with the maintenance of perpetual inventory records. If inventories are at more than one location, physical counts should occur on the same day. Removals from inventory should be by requisition only.

Do not permit drivers to put goods into, or remove them from, storage. Remove received materials to storage areas promptly. Have warehousemen check inventory arrivals against receiving records.

Check for careless storage of valuable metals, such as copper, nickel, and brass. Inspect rubbish piles or other places of concealment near the property's perimeter. Mark with company name such tools as spray guns, acetylene torches, electric drills, etc. Tool cribs and stockrooms should be checked for the presence of unauthorized or suspiciously acting employees. The presence of property that is out of its customary area or appears to be placed for misappropriation should be reported immediately. Tools should be checked back into the tool crib at the end of each shift. Some companies report that since adopting a policy of lending tools to employees for home use, losses have decreased.

A number of controls are available to minimize pilferage of scrap:

- Determine the grade and quantity of scrap as soon as possible after its creation.
- Separate the responsibility for checking and measuring scrap from the responsibility for disposal and accounting.
- Supervise loading of trucks to prevent substitution of valuable materials for scrap items.
- Follow scrap disposal trucks to destination to prevent diversion of property en route.
- Check incinerator area. Company merchandise or tools may be hidden in rubbish piled up for burning.
- Investigate an increase in scrap rates and in raw material usage in relation to output volume.

When returned by the local driver, delivery receipts should be compared with control copies. Periodically rotate drivers among runs. Require positive identification from pick-up drivers; record license plates, especially on rental vehicles. Segregate shipping from receiving areas. Delete advertising from shipping cartons. Strap small cartons into one unit for pickup. Route truck shipments in a way that minimizes the number of interline transfers.\*

A package control system can be effective in preventing pilferage of inventory, supplies, tools, and other property. But package pass forms should be carefully regulated and charged by number to those author-

\*For additional suggestions about how to reduce pilferage of cargo, see *Cargo Theft and Organized Crime* (October 1972). Available from the U.S. Government Printing Office, Washington, D. C. Price is 70 cents.

ized to issue them. Sample signatures of those authorized to issue passes should be available to guards at exit gates. Package passes should be signed only at time of issue. Passes collected and then canceled by guards should be returned to the issuers for verification and destruction.

Product components used on the assembly line may be desirable targets for pilferers. Some firms help control such losses by storing the main supply in locked cribs and distributing only those amounts required for the day's production.

Once controls such as the above are implemented in a coordinated fashion, a more intelligent decision can be reached regarding the need for security personnel and such hardware-oriented controls as alarms, surveillance systems, etc.

### Countermeasures for insurance fraud

Countermeasures applicable to the false-claim racket include the following:

1. Check the claimant's name against the files of the insurance industry's Index System, a nationwide clearinghouse of injury claims. A lengthy claims history of an accident "victim" could indicate fraud.
2. Do not be beguiled into accepting a hasty settlement.
3. Secure independent medical evidence regarding alleged injuries.
4. Insist that the claimant document his case fully.

As for preventive measures to reduce exposure to swindles by paper insurance companies, a basic precaution is to check the insurer with your state insurance commissioner—particularly when the company is based offshore or overseas. Such alien insurers are screened with regard to their integrity, and state insurance commissioners have access to the results of this screening. See also the preventive measures noted for advance-fee operations on page 73.

To guard against dealing with an insurer whose parent, if any, has weakened its stability through one or more of the tactics described in Chapter III, the prudent course is to seek the advice of your banker, insurance consultant, or investment counselor to determine the corporate status of the insurer, the history of its financial dealings with its parent, if any, and an overall assessment of its stability. Your state insurance commissioner may also be of help in this regard. The same procedure could be followed to determine whether an insurer is authorized to sell the type of coverage being advertised.

### Receivers of stolen property— some preventive steps

In the words of a former fence, the placement of identification numbers on products "would stop a lot of burglars from burglarizing, a lot of

receivers from receiving." Indeed, the greatest problem confronting prosecutors and police officials in apprehending and convicting receivers is that stolen merchandise frequently cannot be identified by its owners. If a businessman is unable to distinguish between his goods that were legitimately marketed and those of his that were marketed as the result of a theft, his plant or store presents a tempting target to the thief-fence combination.

Manufacturers have a particularly vital role in devising methods by which identification numbers can be stamped on, or otherwise affixed to, products and merchandise. But product identification per se will achieve little if manufacturers, wholesalers, retailers, and consumers do not take the time—and expense—of recording the identification numbers of products currently in their possession. Such numbers are invaluable to law enforcement officials, who can enter them into computerized criminal information systems, such as the FBI's National Crime Information Center, which contains data on a wide variety of stolen articles.

Company personnel—especially the sales force—could be instructed to remain alert for the sale of company products at abnormal discounts or through unusual channels or outlets. They could be given the serial numbers of stolen goods. In one instance, a typewriter repairman noted that the serial number on the equipment he was servicing was on his employer's hot list.

Management should not put so much pressure on buyers and purchasing agents that they resort to dealing with cut-rate underworld sources. Rather, they should carefully study the good bargains that may be offered from time to time, especially if the item to be purchased is drawn to their attention by those who operate outside the distribution channels usually associated with the product.

Frequently theft victims—or their insurers—are approached by receivers who offer to sell back the stolen merchandise. Though such offers may be tempting, they should be rejected. For a company to become the prime market for the merchandise stolen from it is hardly in the firm's best long-run interests—nor in the best interest of crime prevention.

Routine inspection of outlets considered as capable of peddling stolen merchandise may reveal problems that your firm's internal controls failed to detect. If certain types of outlets are commonly associated with selling stolen property, attempts might be made to convince local government that it should outlaw or at least regulate them. In one city, the police are charged with enforcing comprehensive regulations directed at over 50 different types of businesses which are considered to be likely outlets for fencing or other undesirable activity. Some forms of business are banned altogether, such as flea markets.

Business can support proposed federal legislation designed to permit civil suits (governed by less stringent rules of evidence than apply to criminal proceedings) by transport carriers, shippers, or others lawfully in possession of goods moving in interstate commerce to recover treble damages from any person who buys, receives, or possesses such goods providing such a person knows or *should have known* the stolen character of the goods. The bill, proposed by the Senate Select Committee on Small Business, would supplement the present criminal law in this area. Support for comparable legislation at the state level also merits serious consideration.

### What can be done to counteract securities theft and fraud?

There is a disturbing sufficiency of evidence to indicate that many within and outside of the securities industry assiduously avoid raising the necessary questions about the legitimacy of the certificates they handle. Indeed, in one reported case, a bank which learned that it was stuck with a stolen security palmed it off on another institution, which subsequently discovered the true nature of the certificate. Reported apathy to subjecting securities and those who tender them to a thorough cross-examination is the result of a combination of factors, according to many interviewed for this publication:

- Naive trust.
- Greed which triumphs too frequently over reason. The commission is too appealing, or the deal is too tempting; as a result, questions that should be answered are never even asked.
- Fear by some banks and brokers that by checking the authenticity of certificates with various stolen-security master lists—computerized and otherwise—the protection afforded by the holder-in-due-course doctrine will be jeopardized. In oversimplified terms, the doctrine can protect a bank or broker from claims of ownership by prior holders of a security if the bank or broker accepts a negotiable instrument in good faith and without knowledge of any "problems" associated with the security. Although coming under increased attack, the case is made that if a banker or broker fails to check existing information, even when it is readily available on a timely basis, regarding the legitimacy of a security, this does not show a lack of good faith, etc. and the holder-in-due-course protection is not affected. However, so some would argue, once the banker or broker subscribes to a system or service that provides such information, failure to use it in a given case negates due-course protection and opens the floodgates of potential litigation with regard to the possible claims of prior holders of the security in question. Clearly,

this problem—assuming it is a valid problem—must be resolved before a wholehearted attack on securities fraud can commence.

- Insurance will take care of theft and fraud losses.
- Fear that if an institution's inventory of securities is checked against a list of lost, stolen, and missing certificates, a substantial number of these would be found on the premises, having been unwittingly or carelessly accepted during the course of various fraudulent transactions. One respected authority has stated that hundreds of millions of dollars worth of such securities are probably in the vaults of the nation's financial institutions. This raises a question whose answer is still relatively murky: Will it go to get stuck? The current holders of these securities? The insurers of those holders? Or those who owned the securities prior to their loss or theft (and to whom replacement certificates were probably issued)?

For a variety of reasons, therefore, one of the most effective countermeasures for nipping securities fraud in the bud (and removing the reason for the related thefts)—that is, the cross-examination of "paper"—is often honored more in the breach than in its observance.

Businessmen should maintain an attitude of constructive skepticism with regard to transactions involving offshore firms. The same also applies to little-known domestic companies whose financial statements indicate significant assets in the form of securities of equally little-known firms.

Credit reports which merely parrot the representations of those reported on should not be regarded as proof of anything.

Financial institutions and brokerage houses should establish clear lines of accountability for adherence to well-thought-out procedures regarding the handling and storage of securities. When a theft does occur, an "accountability audit trail" will exist.

Banks should not accept street-name securities as collateral.

Brokerage houses should not stamp their street-name endorsements on securities to be held in inventory.

Shareholders should not keep their securities at home but in a safe-deposit box or with a reputable, financially stable brokerage house. Regardless of where securities are kept, their owners should record the certificates' numbers, denominations, and issuers, and file this list in a separate location.

Support should be considered for legislation, already recommended by a Congressional committee, that would make it a federal offense for anyone with intent to defraud, to create, write, possess, use, or exhibit a financial statement, brochure, credit reference, or business report reflecting assets of \$1-million or more, if such document contains information and figures that are false or fraudulent.

Other legislation that has been recommended pertains to authorizing the Securities and Exchange Commission, by court order, to seize and attach illegally obtained funds believed to be the product of securities fraud or manipulation, in order to prevent secretion and dissipation of these funds so they eventually may be returned to those who have been defrauded.

Physical inventory counts should be compared with records of not only the number of shares on hand but also the identification number on each certificate. The latter aspect could be conducted at least on a random sampling basis.

Proposed transactions involving the sale of securities at bargain-basement prices should be regarded as inherently fraudulent. Those security transactions involving numbered Swiss bank accounts or secretive foreign trusts must be regarded as suspect until proved otherwise.

Be wary of "getting in on" an hitherto obscure stock whose price is suddenly increasing—particularly when most of each day's increase occurs near the close of trading.

Since many securities are bearer instruments—and thus are as good as cash—some observers have recommended that all securities be of the registered type, which are not as easily negotiated.

To sum up, the application of healthy cynicism can result in the biggest dividend of all.

## Collective action

Whether organized along national, regional, or local lines or structured to focus on inter- or intra-industry problems, collective action by business and the professions can be, and is, a key ingredient in an informed response to white-collar crime. What a firm acting on an individual basis may lack in financial resources, expertise, perspective, manpower, or just plain clout can be supplied by an organization to which all belong and support, from which all benefit, and through which what cannot be achieved alone can be achieved jointly.

A cooperative effort can be highly effective when (1) it involves a sufficiently large and professional staff to apply the required time, manpower, and expertise to the problem at hand; (2) it is supported on an equitable basis by all and thus becomes unduly expensive to none; (3) it analyzes each participant's problems and thereby acquires a comprehensive perspective; and (4) it promotes unified action and thus can shield each participant from the backlash that perhaps would result if, in the absence of joint action, this course were taken by a few firms but not by others. (Such a backlash might be operating costs out of line with those of competitors that did not implement countermeasures, or lost business because of a refusal to go along with unethical practices engaged in by others who thereby gain a competitive edge.)

Among the possible objectives of collective action are the following, many of which are more fully illustrated on subsequent pages:

- Funnel criminal intelligence to law enforcement agencies and to participating firms.
- Conduct investigations and compile evidence that involve expertise, time, and personnel not always available to hard-pressed police and prosecutors.
- Upgrade the ethical code of a profession.
- Serve as a central source of information heretofore scattered and difficult to obtain on a timely basis.
- Screen prospective employees for members.
- Initiate and support legislation.
- Settle consumer complaints.
- Develop performance standards and procedures to be implemented by constituent companies.
- Assist law enforcement (which generally begins with the "bad guy")

and works toward identifying "the front") by identifying the front and attempting to locate the crook. "By coordinating with law enforcement, maybe we can meet in the middle and save a lot of time," observed the head of one industry's security organization.

Listed below are some of the many types of collective action in which business and the professions are, or could be, engaged.

### How to take a common stand against bankruptcy fraud

Are you a member of an organization which keeps you advised of bankruptcy fraud in your area? If not, you may wish to investigate the services offered by the Fraud Prevention Department of the National Association of Credit Management. The Department not only supplies an early warning service through its publication *Alert* but also conducts investigations to obtain information necessary for indictments and convictions in scam cases.

With over 3,000 indictments and more than 1,800 convictions to its credit, the Department is a good example of how joint action by companies enables business to implement anticrime efforts that are either too costly or too impractical to conduct by any one firm. For instance, the Department can add to the scope of a bankruptcy investigation by collecting pertinent information from every part of the nation. Also, the cost of an investigation to develop evidence of fraud is spread among member companies—a cost that a lone firm would not normally assume because the price tag would most likely far exceed the fraud-related loss.

### Joint action against bribery, kickbacks, payoffs

Detailed codes and statutes which entangle business can be the rain forest of corruption. As one observer notes, "The outsider is bewildered and frustrated. Nothing he does seems to be quite correct. Reasonable efforts at compliance seem inadequate. There always seems to be something in writing somewhere with which he did not comply or which is an absolute bar. The 'guide' is naturally sought out. . . ."

Commenting on the predicament in which some find themselves, an official of a builders trade association observes, "It is virtually impossible for a builder to erect a building within the city . . . and comply with every statute and ordinance. . . ." A prosecutor completes the picture: "When a building . . . inspector receives \$5,000 yearly and has the power of life and death in his summons book, the temptation is too great."

The result, in too many instances, is systematic solicitation of payoffs by building inspectors and an equally systematic payment of bribes by contractors. Referring to this situation, a district attorney interviewed for this publication declared: "This is a situation ripe for united action.

Through their association, contractors should tell the city, 'Not one more brick will be laid until this harassment by inspectors stops. No more bribes. We will be glad to cooperate in any effort to make the building code more realistic.'"

Architects and engineers are not usually awarded government contracts through competitive bidding. Often the awards are contingent upon under-the-table kickbacks to public officials. The executive director of an engineers organization is quoted as saying, "Some firms have to hire former legislators and public officials who have influence so they don't have to give as much."

Responding to the problem, a panel of an engineering society recommended a \$100 ceiling on contributions to any public official, political candidate or political party over any two-year period. In the absence of this type of joint action, the chances that an individual firm would unilaterally adopt such a course are remote. No one would want to go out on a limb unless others were there first.

### Computer-related crime

One of the more recent examples of collective action occurred in June, 1973, when the First National Invitational Conference on Computer Abuse convened at the Stanford Research Institute. Numerous facets of computer-related fraud were discussed and many courses of action probed. One of the recurrent themes was concern that ethical and moral values are not yet well-formed by many of those engaged in computer technology. Yet substantial trust is being increasingly placed in EDP personnel.

Also in mid-1973, a joint effort by those in the data processing field resulted in a Code of Ethics and Code of Conduct for CDP\* Holders. One provision states that because of "the privileged capability of computer professionals to gain access to computerized files, especially strong strictures will be applied to those who have used their position of trust to obtain information from computerized files for their personal gain."

### Consumer fraud

Various industry-supported attempts at self-regulation by which to protect consumers exist. These include Better Business Bureaus, special divisions within local Chambers of Commerce, centralized sources for referrals of consumer complaints (in such areas as appliances, advertising, and home improvements), and programs centering on product standardization, certification, and seals of approval. The extent to which the self-regulatory approach can be pursued without running afoul of legal or regulatory provisions is currently being studied by the FTC's staff.

\* Certificate of Data Processing.

A consumer protection program that seems worthy of emulation is administered by the Buffalo-located Better Business Bureau of Western New York, which operates what might be called a consumer affairs clearinghouse. Publicity alerts consumers that if they have complaints, the Bureau is the place to call. This avoids (1) consumer confusion over which of several possible agencies to contact and (2) consumer frustration over being bounced from agency to agency before finally, if ever, reaching the right source.

The Bureau gives the complained-against businessman first chance to resolve the issue with the consumer. If resolution is not possible on this basis, the consumer is offered the services of a free arbitration service whereby the businessman and his customer submit their dispute to an impartial third party for decision.

When complaints pertain to obvious violations of law or when the complained-against business is uncooperative (e.g., refuses to arbitrate, etc.), the Bureau refers the complaint to the appropriate government agency for action (D.A., FTC, state or local regulatory agency, etc.).

The merit of this approach is that all reasonable efforts are made to settle disputes on a self-regulatory basis before the involvement of frequently overburdened government agencies is sought. Also, in contrast to many other types of business-supported consumer protection programs, the dispute is not dropped if private resolution is not possible. The extra step of referring such cases to governmental agencies is a promising and innovative procedure.

Business may also wish to advocate and support the establishment of a consumer protection division within the district attorney's office. For example, the County Prosecuting Attorney in Flint, Michigan, created such a division, which places its emphasis on persuasion and mediation rather than on the formal criminal justice process:

- The attorney in charge of the division oversees professional investigators, who are often able to resolve consumer complaints merely by a telephone inquiry to the merchant involved. Through such mediation, the investigators are said to resolve about 85 percent of all complaints.

- Complaints not resolved by the professional staff are referred to a consumer council, which is comprised of over 100 citizens sitting as a mediation board. Many businessmen serve on the council, which is divided into teams of 12 members each. About 80 percent of referred disputes are settled.

- A member of the professional staff coordinates over 100 volunteer student investigators, who have been trained to assist by conducting research, investigations, interviews, statement-taking, etc.

\* For more details about this arbitration service, write the Council of Better Business Bureaus, Inc., 1150 17th St., N.W., Washington, D. C. 20036.

## Collective action against credit card and check fraud

Through a contract with a private agency, the American Bankers Association provides a free crime investigation service to its member banks. Free preliminary investigations are available in connection with such offenses as swindles involving the use of stolen or fraudulent credit cards and the forgery of checks. The Association also publishes a protective bulletin alerting readers to various frauds and criminals.

Local banks could collaborate to conduct clinics which highlight countermeasures for credit card and check fraud. Such clinics, geared to commercial customers, could utilize the educational package available from the Travelers Cheque Division of the American Express Company.

Several years ago a committee of the Interbank Card Association adopted a set of standards for manufacturing, embossing, shipping, storing, and mailing credit cards. Such standards are mandatory for member banks as well as for contractors that manufacture or otherwise handle the cards.

## Insurance fraud

Illustrative of the type of collective action possible against insurance fraud is the Insurance Crime Prevention Institute, which is supported by member casualty insurers. The organization seeks to deter fraudulent claims through the investigation of key cases and presentation of evidence to prosecuting authorities. According to the Institute's policy statements, it does not participate in the actual settlement of claims and does not advise members about the disposition of any claims.

"... ICPI will not take a case where a company just wants restitution and then will drop prosecution. That isn't the way to stop fraud. We attempt to select the strongest, most significant cases for investigation, and we give top priority to cases involving organized groups—the kind most likely to strike repeatedly at insurance companies."

Citing reasons why ICPI must supplement the work of law enforcement agencies, a spokesman for the Institute is quoted as follows: "... there's a certain pressure on police to overlook white-collar crime. As citizens, we want police to go out and get the guy who's holding up the bank. We're not as anxious for them to go after unscrupulous lawyers or physicians. What we have, as a result, is a sort of respectable crime, which there has been a distinct reluctance to prosecute. This affects not only the experience of insurance companies, but our whole system of justice."

## Industrywide efforts against pilferers and receivers

Within the transportation industry, for example, there are several associations whose activities are directed against pilferage and other forms of

cargo theft. Programs have been developed to achieve the following:

- Screen prospective employees for member companies. "Upon receipt of the biographical and identifying data, we submit that information to the law enforcement agencies. . . . We also run him through our own individual indices for past employments. . . ."

- Maintain and analyze theft statistics. One association "maintains loss records to determine pattern, areas, and cause of loss and recommends deterrents in connection therewith."

- Develop and enforce performance standards. One cargo protection council designs, and recommends improvements in, procedures for cargo handling and supervision, methods for packaging and storing high risk commodities, and methods related to such physical security measures as lighting and fencing.\*

Regarding combating the receiver of stolen goods through better product identification, this call for collective action was sounded by a local prosecutor:

"For example, retailers and wholesalers must begin to require that their manufacturers devise appropriate methods to identify the goods which they purchase. Without these appropriate markings prosecutions and the actual recovery of fungible property is almost impossible. Although markings might add to the cost of the goods, I cannot imagine that these costs would be greater than the losses which are now being sustained by almost every industry. If economic pressure cannot be brought to bear on the manufacturers then appropriate legislation should be considered."

## Coordinated action to reduce securities theft and fraud

The principal goal of the New York City-based Joint Industry Committee (JIC) is to reduce securities theft and increase recoveries by stimulating and facilitating cooperation between law enforcement agencies and members of the securities industry. Members of the JIC include representatives from New York area banks, New York and American Stock Exchanges, National Association of Securities Dealers, and brokerage houses. In effect, JIC serves as a liaison between law enforcement and the financial community. A JIC spokesman made this observation:

"In an era of increasing workloads, law enforcement has been placed in the position of having to make decisions as to the use of their all too few manhours. JIC officials feel that when police officers recognize that the financial community is not only willing to work with them, but is trying to help itself, they will be more likely to place the theft-

\* For additional details and examples, see *Cargo Theft and Organized Crime*, pp. 64-69. Available from the U.S. Government Printing Office, 70 cents.



counterfeiting problem high on their list of priorities."

Among other activities, JIC has issued theft-prevention suggestions to its members; provided law enforcement officials with an introduction to brokerage office operating procedures; supplied funds for police to use as rewards, "show money," or "good faith money" in their undercover attempts to recover stolen securities; provided expert witnesses for court testimony; and "opened doors" to put law enforcement agencies in touch with key industry officials who could supply needed information.

Also operating in New York City is Securities Validation Corporation, which was hired by the securities industry there to design and implement a computerized system which brokers and others could access easily, and could quickly receive answers from, regarding inquiries about whether a given security has been reported as lost, stolen, or missing. Such a system is now available. As an illustration of the system's effectiveness, a spokesman for the company recounted an incident where a "midwestern bank was approached by an unknown individual in an attempt to obtain a collateral loan, pledging approximately \$125,000 worth of stolen common stock certificates. An inquiry by a subscribing member firm verified that the items in question were stolen, and the transaction was negated."

However, this centralized source—to and from which reports of lost, stolen, and missing securities can flow—has not been used anywhere near its full potential. Some of the reasons for this were noted in Chapter V. In reference to this underutilization, a member of the Senate Permanent Subcommittee on Investigations concluded that "most financial institutions are simply not cooperating in making effective the system they helped create. It would seem that this clearinghouse system could be made mandatory for at least all institutions which are chartered or licensed by the Federal Government or are in some way subject to Federal regulation."

As a result, information about lost, stolen, and missing securities remains largely inaccessible, scattered among transfer agents, brokerage houses, banks, stockholders, and their respective insurers.

With international contacts (and the linguistic skill to match), the Criminal Intelligence Section of the Toronto Stock Exchange compiles, analyzes, and disseminates an impressive quantity of information about those who engage in securities fraud and theft. A rough idea of the scope of its activity can be gleaned from these events which occurred during an interview with the Section's director:

- A number of incoming calls (Florida, New York, various parts of Canada) were received from law enforcement and other sources desiring name checks and other information or reporting securities thefts.

- Preparation of a bulletin alerting exchange members of a recent stock theft was completed and put into circulation within 40 minutes of the receipt of the theft report.

- A broker was warned that the German banker he had talked to the day before is a phony and an accomplished perpetrator of securities fraud.

Being the liaison between the Exchange and law enforcement, the Section also helps supply evidence to police and, when appropriate, will follow a case through to the apprehension of the suspect. Court testimony is also given when requested. Though convictions are always welcome, the Section, with its capability to quickly trace and keep on top of swindles that cross jurisdictional and national boundaries, strives to take the profit out of fraud by stopping it before it starts (such as by alerting the broker to the phony banker). When a con man starts losing money, this could be more of a deterrent than the threat of jail.

### LEAA supports anticrime programs

On a collective basis, such as through associations, those in business and the professions could stimulate the development of, and express support for, programs directed against white-collar crime that are planned or financed by each state's law enforcement planning agency (SPA).

The SPAs constitute the principal conduit through which federal funds are funneled by the Justice Department's Law Enforcement Assistance Administration (LEAA) to support crime reduction efforts of state and local governments, whose programs to combat white-collar crime, organized crime, and corruption have increased substantially in recent years. For these three related types of crime, LEAA specialists, at each of its ten regional offices, can provide on-the-spot assistance to state and local agencies in designing, implementing, and evaluating projects. Additional information may be obtained from LEAA, Department of Justice, Washington, D. C. 20530.

### Conclusion

The *Handbook* has attempted to outline how the business and professional community can make an informed response to white-collar crime. Of necessity, only a general strategy, along with some illustrative specifics, has been presented. (To do more would have required a series of volumes, not a handbook.) What had to be brief and skeletal must be fleshed out, and tailored to individual needs.

Since the *Handbook* has touched only the tip of the iceberg, much of the remainder depends on you. If the motivation behind this action is a desire to maintain and enhance the integrity of business and the professions, the bottom line will take care of itself.



## Appendix I/Sources of assistance

The following list is not all-inclusive but merely notes some of the likely sources that could be expected to assist victims of white-collar crime. After each listed source, space is available for you to note the phone number and address. (Your District, Prosecuting, or State's Attorney may have a supplementary list available.) The numbers preceding the below sources correspond to those noted at the end of each "crime section" in Chapter III. Before contacting a given source, you should consult with your legal counsel and/or security adviser. Because of special conditions that might apply in a given case, he may suggest an agency not mentioned here; if so, add it after "Other." If you are undecided about which federal agency to contact for a given offense, Postal Inspectors and FBI agents can help resolve such questions.

1. District or Prosecuting Attorney:
2. Police or Sheriff:
3. Local or state agency specializing in investigations of official corruption:
4. Nearest State's Attorney:
5. State Insurance Commissioner:
6. Antitrust Division, U.S. Department of Justice:
7. Criminal Division, U.S. Department of Justice:
8. Nearest FBI office (usually listed in the front of your telephone directory):
9. Federal Trade Commission (and/or nearest FTC regional office):
10. Immigration and Naturalization Service, U.S. Department of Justice:
11. Intelligence Division, Internal Revenue Service, in the IRS District in which you file:
12. Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development:
13. Office of Labor-Management and Welfare-Pension Reports, U.S. Department of Labor:
14. Nearest Postal Inspector (or local Postmaster if you want to relay reports through him), U.S. Postal Service:
15. Securities and Exchange Commission:
16. Nearest U.S. Attorney:
17. U.S. Secret Service, Department of the Treasury:
18. Local or statewide citizen crime commission:
19. Security Division of credit card or travelers check issuer:
20. Other:



APPENDIX B

Consumer Affairs Act of 1970

Chapter 4

CONSUMER AFFAIRS

| Article                                     | Section |
|---------------------------------------------|---------|
| 1. General Provisions and Definitions ..... | 300     |
| 2. Director and Employees .....             | 305     |
| 3. Powers and Duties .....                  | 310     |
| 3.5 Consumer Advisory Council .....         | 315     |
| 4. Representation of Consumers .....        | 320     |
| 5. Consumer Complaints .....                | 325     |
| 6. Information .....                        | 335     |

*Chapter 4 was added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.*

Article 1

GENERAL PROVISIONS AND DEFINITIONS

- Sec.
- 300. Short title.
  - 301. Legislative intent.
  - 302. Definitions.
  - 303. Division of consumer services; chief.

*Article 1 was added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.*

§ 300. Short title

This chapter may be cited as the Consumer Affairs Act.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.)

Historical Note

Stats.1970, c. 1394, p. 2622, also contained the following sections:

"Sec. 8. The Department of Consumer Affairs succeeds to the duties, powers, purposes, responsibilities, and jurisdiction vested in the Office of Consumer Counsel by Article 5 (commencing with Section 12050) of Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code.

"Sec. 9. The Department of Consumer Affairs may use the unexpended balances of funds available for use by the Office of Consumer Counsel in the Agriculture and Services Agency in connection with the performance of the functions of the Office

of Consumer Counsel in the Agriculture and Services Agency that are vested in the Department of Consumer Affairs by this act. Such funds shall be used by the Department of Consumer Affairs only for the purposes for which they were originally appropriated or otherwise made available to the Office of Consumer Counsel in the Agriculture and Services Agency.

"Sec. 10. The Department of Consumer Affairs shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or

personal, held for the benefit or use of the Office of Consumer Counsel in the Agriculture and Services Agency in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the Office of Consumer Counsel that are vested in the Department of Consumer Affairs by this act.

"Sec. 11. In the event the Governor's Reorganization Plan No. 2 of 1970 does not become effective or operative, then all references in this act to the Department of Consumer Affairs or to the Director of Consumer Affairs shall be construed to be references to Department of Professional and Vocational Standards or to the Direc-

tor of Professional and Vocational Standards, as the case may be.

"Sec. 16. Should Governor's Reorganization Plan No. 2 of 1970 become effective, any agency within the Department of Consumer Affairs which has investigative personnel subject to transfer pursuant to Section 159.5 of the Business and Professions Code may retain 10 percent of such personnel, and in no case less than one, as investigative consultants at their present rate of pay."

The Governor's Reorganization Plan No. 2 of 1970 became effective.

### § 301. Legislative intent

It is the intent of the Legislature and the purpose of this chapter to promote and protect the interests of the people as consumers. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through (a) educating and informing the consumer to insure rational consumer choice in the marketplace; (b) protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices which are inimical to the general welfare of consumers; (c) fostering competition; and (d) promoting effective representation of consumers' interests in all branches and levels of government.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.)

#### Library References

Trade Regulation 801.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

### § 302. Definitions

As used in this chapter, the following terms have the following meanings:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of the Department of Consumer Affairs.
- (c) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.
- (d) "Person" means an individual, partnership, corporation, association, or other group, however organized.

(c) "Individual" does not include a partnership, corporation, association, or other group, however organized.

(f) "Division" means the Division of Consumer Services.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971. Amended by Stats.1972, c. 808, p. 1437, § 1.)

Library References

Words and Phrases (Perm.Ed.)

§ 303. Division of consumer services; chief

There is in the department a Division of Consumer Services under the supervision and control of a chief. The chief shall be appointed by the Governor and shall serve at his pleasure. His compensation shall be fixed by the director in accordance with law.

(Added by Stats.1972, c. 808, p. 1437, § 2.)

Cross References

Appointment of division chiefs, see Government Code § 11153.

Library References

Trade Regulations ⇄863.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

Article 2

DIRECTOR AND EMPLOYEES

Sec.

305. Administrative powers.

306. Personnel.

Article 2 was added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.

§ 305. Administrative powers

The director shall administer and enforce the provisions of this chapter. Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or the chief of the department's Division of Consumer Services, subject to such conditions and limitations as the director may prescribe.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971. Amended by Stats.1971, c. 114, p. 149, § 1, eff. June 2, 1971, operative July 1, 1971.)

Library References

Trade Regulation ⇄862.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

### § 306. Personnel

The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of such clerical or other personnel as may be necessary to carry out the provisions of this chapter. All such personnel shall perform their respective duties under the supervision and the direction of the director.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.)

#### Cross References

State Civil Service Act, see Government Code § 18500 et seq.

### Article 3

#### POWERS AND DUTIES

##### Sec.

- 310. Powers and duties.
- 311. Interdepartmental committee.
- 312. Reports and recommendations.
- 313. Library; establishment.
- 313.1 Rules, regulations and fee changes; approval of director; overriding veto.
- 313.5 Bibliography of consumer information.

*Article 3 was added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971*

### § 310. Powers and duties

The director shall have the following powers and it shall be his duty to:

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.
- (c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.
- (d) Study, investigate, research, and analyze matters affecting the interests of consumers.
- (e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.
- (f) Propose and assist in the creation and development of consumer education programs.

(g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.

(h) Advise the Governor and Legislature on all matters affecting the interests of consumers.

(i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.

(Added by Stats.1970, c. 1394, p. 2616, § 3, operative July 1, 1971.)

#### Historical Note

Derivation: Gov.C. former sections 467, p. 2402, § 1, amended by Stats.1069, 12053 to 12055, added by Stats.1959, c. 138, p. 304, §§ 54 to 56.

#### Library References

Trade Regulation ⇐803.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

### § 311. Interdepartmental committee

The director may create an interdepartmental committee to assist and advise him in the implementation of his duties. The members of such committee shall consist of the heads of state departments, or their designees. Members of such committee shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

(Added by Stats.1970, c. 1394, p. 2617, § 3, operative July 1, 1971.)

#### Historical Note

Derivation: Gov.C. former section p. 1732, § 1; Stats.1907, c. 1656, p. 4020, 12057, added by Stats.1959, c. 407, p. § 60, 2402, § 1, amended by Stats.1961, c. 586,

### § 312. Reports and recommendations

The director shall submit to the Governor and the Legislature during the month of December prior to each regular session of the Legislature a full and accurate report of the activities of the department relating to consumer affairs. Such report shall include recommendations, when appropriate, for legislation which will protect and promote the interests of consumers. A copy shall be filed with the Secretary of State.

(Added by Stats.1970, c. 1394, p. 2617, § 3, operative July 1, 1971.)

#### Library References

Trade Regulation ⇐802.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.



**§ 313.** Library; establishment

The director may provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems.

(Added by Stats.1972, c. 1251, p. 2438, § 1.)

**Historical Note**

Another section 313, added by Stats. 1972, c. 1412, p. —, § 1, was renumbered section 313.1 and amended by Stats.1973, c. 40, p. —, § 1, eff. May 10, 1973.

**§ 313.1** Rules, regulations and fee changes; approval of director; overriding veto

(a) Notwithstanding any other provision of law to the contrary, no rule or regulation, other than those relating to examinations and qualifications for licensure, and no fee change promulgated by any of the boards, commissions or committees within the department, shall take effect until submitted to the director for review.

(b) The director shall have the authority, for a period of 30 days after such a proposed rule, regulation, or fee change has been submitted to him, to disapprove it on the ground that it is injurious to the public health, safety, or welfare. If it is so disapproved it shall have no further force or effect unless such disapproval is reversed by a unanimous vote of the board, commission, or committee proposing it, in which event it shall become effective upon compliance with the further procedures required by Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

(c) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him, in which event it shall become effective upon compliance with the further procedures required by Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

(Formerly § 313, added by Stats.1972, c. 1412, p. 3072, § 1. Renumbered § 313.1 and amended by Stats.1973, c. 40, p. —, § 1, eff. May 10, 1973.)

**Library References**

States 67.

C.J.S. States §§ 58, 66.

**§ 313.5** Bibliography of consumer information

The director may periodically publish a bibliography of consumer information available in the department library and elsewhere. Such bibliography shall be sent to subscribers upon payment of a reasonable fee therefor.

(Added by Stats.1972, c. 1251, p. 2438, § 2.)

Article 3.5

CONSUMER ADVISORY COUNCIL

Sec.

- 315. Creation.
- 316. Composition.
- 317. Appointments; terms.
- 318. Duties.
- 319. Hearings.

*Article 3.5 was added by Stats.1970, c. 1394, p. 2617, § 3, operative July 1, 1971.*

§ 315. Creation

There is in the department a Consumer Advisory Council.

(Added by Stats.1970, c. 1394, p. 2617, § 3, operative July 1, 1971.)

Library References

States 44.

C.J.S. States §§ 52, 55, 56.

§ 316. Composition

(a) The Consumer Advisory Council consists of seven members appointed by the Governor, two of whom shall represent business, one of whom shall represent labor, two of whom shall represent voluntary consumer agencies, and two of whom shall be public members.

(b) One Member of the Senate, appointed by the Senate Committee on Rules, and one Member of the Assembly, appointed by the Speaker of the Assembly shall meet with, and participate in, the work of the council to the extent that such participation is not incompatible with their positions as Members of the Legislature. The Members of the Legislature appointed to the council shall serve at the pleasure of the appointing power. For the purposes of this chapter such Members of the Legislature shall constitute a joint legislative committee on the subject of this chapter and shall have the powers and duties imposed upon such committee by the Joint Rules of the Senate and Assembly.

(Added by Stats.1970, c. 1394, p. 2617, § 3, operative July 1, 1971. Amended by Stats.1971, c. 61, p. 78, § 1; Stats.1972, c. 1251, p. 2438, § 3.)

Library References

States 46.

C.J.S. States §§ 49, 52, 68 et seq.

**§ 317. Appointments; terms**

(a) The Governor shall, on or before July 15, 1971, make the required appointments to the council. The terms of the members first appointed shall expire as follows, to be determined by lot: two members, July 15, 1972; two members, July 15, 1973; and one member, July 15, 1974. Thereafter, each appointment shall be for a four-year term.

(b) No member shall serve more than two consecutive terms.

(c) The members of the council shall serve without compensation but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council.

(Added by Stats.1970, c. 1394, p. 2618, § 3, operative July 1, 1971.)

**Library References**

States 46, 51.

C.J.S. States §§ 40, 52, 68 et seq.

**§ 318. Duties**

The Consumer Advisory Council shall recommend to the director the enactment of such legislation as it deems necessary to protect and promote the interests of the people as consumers, and shall make such studies as it deems necessary, or as directed by the Governor or the director and may render reports thereon from time to time to the people of the state.

(Added by Stats.1970, c. 1394, p. 2618, § 3, operative July 1, 1971.)

**Library References**

States 72.

C.J.S. States § 69 et seq.

**§ 319. Hearings**

In carrying out the provisions of this chapter, the Consumer Advisory Council, with the approval of the director shall hold public hearings and call upon other state agencies for information.

(Added by Stats.1970, c. 1394, p. 2618, § 3, operative July 1, 1971.)

## Article 4

## REPRESENTATION OF CONSUMERS

Sec.

320. Intervention to protect consumer interests.

*Article 4 was added by Stats.1970, c. 1394, p 2618, § 3, operative July 1, 1971.*

## § 320. Intervention to protect consumer interests

Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court, any matter or proceeding which does not involve the adjudication of an alleged violation by any person named as a defendant or respondent or the suspension or revocation of a license issued by any agency of the state and the director finds that the determination of such matter or proceeding may affect substantially the interests of consumers within California, the director, or the Attorney General at the request of the director, may intervene in such matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General, may thereafter present to such agency, court, or department, in conformity with the rules of practice and procedure thereof, such evidence and argument as he shall determine to be necessary for the effective protection of the interests of consumers.

(Added by Stats.1970, c. 1394, p. 2618, § 3, operative July 1, 1971.)

## Historical Note

Derivation: Gov.C. former section 2402, § 1, amended by Stats.1969, c. 138, 12055, added by Stats.1959, c. 467, p. p. 305, § 56.

## Library References

Parties § 40(2).

C.J.S. Parties § 57.

## Article 5

## CONSUMER COMPLAINTS

Sec.

325. Reception of complaints.  
 326. Notice of complaint; referral; patterns of complaints.  
 327. Reports; contents.

*Article 5 was added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.*

**§ 325. Reception of complaints**

It shall be the duty of the director to receive complaints from consumers concerning (a) unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce; (b) the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare; (c) violations of provisions of this code relating to businesses and professions licensed by any agency of the department, and regulations promulgated pursuant thereto; and (d) other matters consistent with the purposes of this chapter, whenever appropriate.

(Added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.)

## Library References

Trade Regulation  $\Rightarrow$  803.

C.T.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

**§ 326. Notice of complaint; referral; patterns of complaints**

(a) Upon receipt of any complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) The director shall also transmit any valid complaint to the state or federal agency whose authority provides the most effective means to secure such relief.

The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law or rule or order of any regulatory agency of the state, or if a pattern of complaints from consumers develops, the director shall transmit any complaint he considers to be valid to any appropriate law enforcement or

regulatory agency any evidence or information he may have concerning such probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to such probable violations or pattern of complaints.

(Added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.)

#### Library References

Trade Regulation § 863.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

### § 327. Reports; contents

The director shall submit to the Governor and the Legislature as part of his annual report information concerning his activities pursuant to Section 326, including the number and general patterns of consumer complaints, the action taken on such complaints, the results of such action, if available, and recommendations which will further the state's capability to resolve consumer complaints.

(Added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.)

#### Library References

Trade Regulations § 863.

C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

## Article 6

### INFORMATION

Sec.

335. Dissemination.

336. Annual report.

*Article 6 was added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.*

### § 335. Dissemination

The director shall disseminate to the public in such form and manner as he deems most appropriate information, statistics, and other data concerning the following:

(a) Functions, duties, powers, and activities of the department and of those agencies whose authority provides relief from commercial and trade practices which are inimical to the interests of the consumer.

(b) Commercial and trade practices which are detrimental to consumers.

(c) Goods and services which are unsafe, unhealthful or inimical to the general welfare of consumers.

(d) General economic conditions.

(e) Test results, analyses, and studies of consumer products and services in the possession of state and federal agencies.

(f) Consumer education which the director may develop on his own initiative or obtain from other sources.

(g) Legislation of interest to consumers.

(Added by Stats.1970, c. 1394, p. 2619, § 3, operative July 1, 1971.)

#### Library References

Trade Regulation § 863.

C.I.S. Trade-Marks, Trade-Names, and Unfair Competition § 237.

### § 336. Annual report

The director shall include as part of his annual report information regarding his activities pursuant to this article and his success in obtaining and disseminating information with respect to information available from other departments of the state.

(Added by Stats.1970, c. 1394, p. 2620, § 3, operative July 1, 1971.)

## Chapter 5

### BUILDINGS OF THE DEPARTMENT

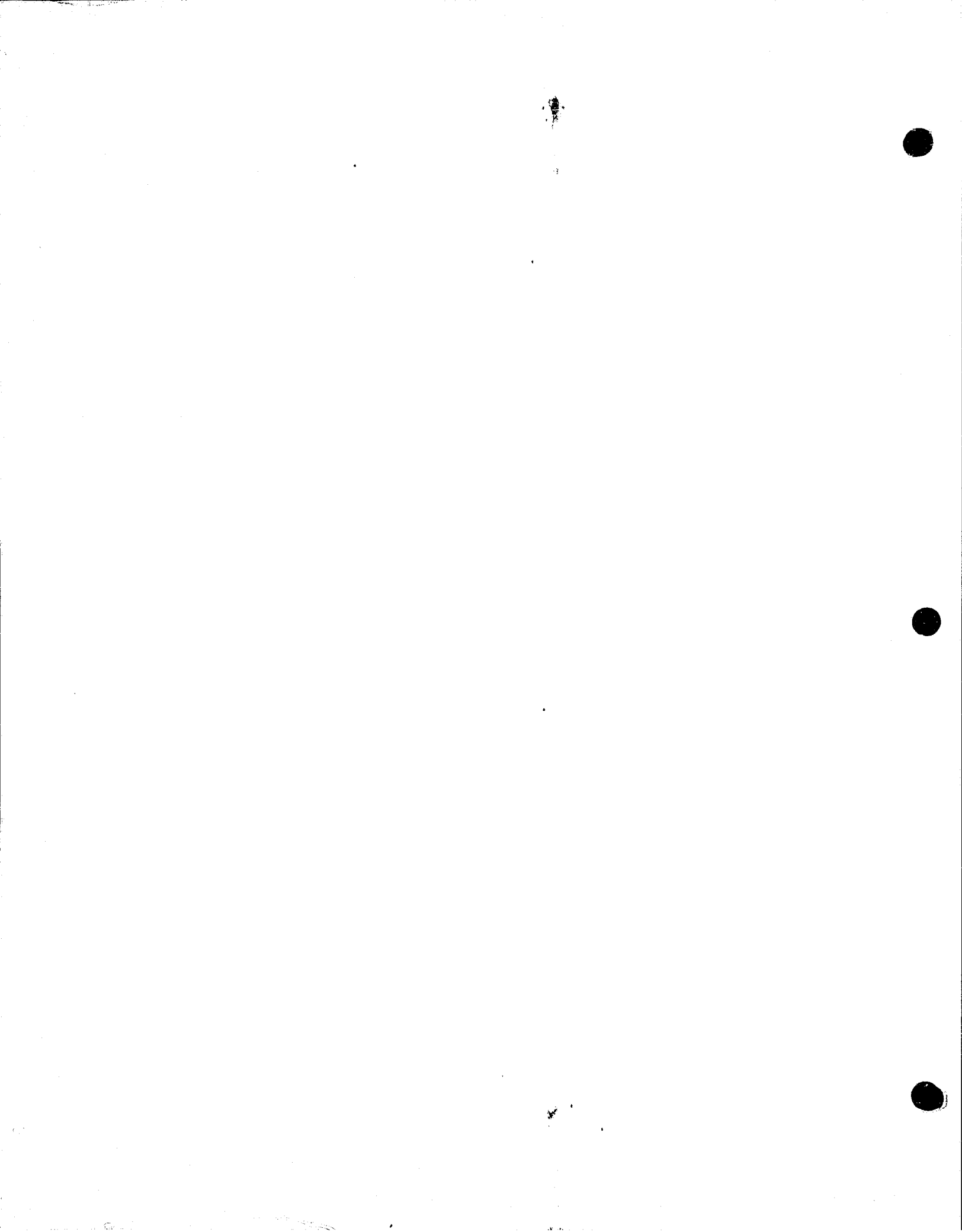
Sec.

- 400. Acquisition and improvement of realty.
- 401. Transfer of money within department.
- 402. Transfer of money to department.
- 403. Supervision and rental of buildings; return of contributions.
- 404. Administrative rules and regulations.
- 405. Disposition of rentals.

*Chapter 5 was added by Stats.1939, c. 909, p. 2523, § 1.  
The act which added this chapter repealed Stats.1937, c. 288,  
p. 631, which covered the same subject matter.*

### § 400. Acquisition and improvement of realty

The Department of Consumer Affairs may, with the approval of the Department of General Services, purchase or otherwise acquire real property and may construct and equip buildings and make improvements thereon for its use and the use of the boards and commissions comprising the department or subject to its jurisdiction and for the use of other departments, boards and agencies of the state, irre-





APPENDIX C

Department of Consumer Affairs

Consumer Fraud Task Force

Final Report

**CONSUMER FRAUD  
TASK FORCE**

**FINAL REPORT**

**Submitted to:  
Governor Reagan  
March, 1973**

**CONSUMER FRAUD  
TASK FORCE  
FINAL REPORT**

**January, 1973**

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The Task Force wishes to express special thanks to the law school students who aided with interviews, UCLA Law School students under the guidance of Professor Paul Boland, Boalt Hall students under the guidance of Professor John Coombs, and Loyola Law School students, Miss Patricia Lynch — staff researcher, Miss Dolores Saunders — staff typist, Departmental Regional Coordinators John Rouse and Don Hauptman, and all those who were interviewed by the Task Force and assisted our efforts.

We also wish to gratefully acknowledge our sources of funding which made it possible for the Task Force to fulfill its charge. Nine State departments contributed, as did the California Council on Criminal Justice. They are in no way responsible for any opinions or conclusions herein.

## PREFACE

Upon presentation of this report to the Governor, the Consumer Fraud Task Force will be dissolved, for its mission will have been accomplished.

We started out in the fall of 1971 as a group of 14 individuals with diverse backgrounds and perspectives. We went through some stormy sessions where differences of opinion were argued strenuously. We resisted urges to append minority report proposals because we believed that there was enough common ground and that our report would be stronger if submitted in one voice. The more we met, debated, researched and wrote, the clearer this became. Our differences were not buried or compromised. On those issues where our differences were not resolved, the majority ruled. And, while individual beliefs and perspectives still exist, many lasting friendships were formed among the members and staff during the course of our work.

Politically, the Task Force was thoroughly non-partisan. We came from businesses, the professions, consumer advocacy, law enforcement and the judiciary.

Our early meetings were characterized by wary courteousness. Gradually, the lines of communication opened wide and we learned much from one another. Diversity of background is essential for a study group if it is to have the breadth of knowledge that will permit a true overview of the subject.

We believe that this report testifies to the fact that with sincere dedication to a goal (and with hard work) individual differences and prejudices can be overcome.

# I. CHARGE, DIRECTION AND BASIC FINDINGS OF THE CONSUMER FRAUD TASK FORCE

## CHARGE, DIRECTION AND BASIC FINDINGS OF THE CONSUMER FRAUD TASK FORCE

The Consumer Fraud Task Force was created in 1971, by Governor Ronald Reagan. The Task Force was comprised of 12 private citizens, an executive director and two staff assistants. The initial charges to the group were as follows:

1. To study the types of fraud in California and their impact on the consumer;
2. To determine whether present laws are adequate to protect the consumer;
3. To ascertain whether law enforcement and state regulatory agencies have the legal tools and administrative procedures necessary to detect, investigate and prosecute perpetrators of fraud; and
4. To prepare this report on fraud problems in California today, with recommendations regarding improving California's protection against consumer fraud.

This Task Force report does not purport to be a study of all aspects of consumer protection in California, but rather a study of consumer fraud problems and ways to protect California consumers from such frauds.

The scope of the report is dependent upon the definition of consumer fraud. Fraud assumes so many shapes that there is no easy definition of it. The term is a generic one and each case where it is claimed that fraud is involved must be considered on its own facts. The statutory definitions of fraud, California Civil Code Sections 1572, 1573, 1709 and 1710 are very broad and yet do not cover every type of fraud.

Fraud has been judicially defined as the successful employment of cunning, deception or artifice to circumvent, cheat or defraud another and as the unlawful appropriation of another's property by design.

Deceit is the inducement of another to alter his position to his injury or risk. It may consist of the presentation *as a fact* of that which is not true by one who does not believe it to be true or who has no reasonable ground for believing it to be true. It may also consist of the suppression of the fact, which suppression misleads another.

One of the common law and early statutory requirements for fraud and deceit was that there be actual injury stemming from the fraud or deceit.

In an era of mass communication and mass consumption this requirement hampered efforts at consumer protection since proof of actual injury to a multitude of individuals was impractical.

Statutes, the Federal Trade Commission Act Section 5 and its California counterpart (Business and Professions Code Section 17500 and Civil Code Section 3369) were then enacted to eliminate the requirement of actual injury. To show a violation of these provisions one need not show actual injury. One need only show that a statement has the "tendency" or "likelihood" to mislead, whether or not it does in fact mislead.

These statutory provisions not only expanded the coverage of the fraud and deceit principles, but also enlarged the concept itself to cover situations where statements although true (or missing some facts) have the likelihood to deceive the unsophisticated and the credulous.

The term "fraud" is thus today used generically to encompass the enlarged concept of fraud and deceit and it is within this broad meaning that the Task Force undertook its study.

The Task Force's investigation included the procurement of information from present and former members of public and private consumer protection agencies in the State of California, regarding the most persistent types of consumer fraud. The following list has been developed by our investigation:

### A. Misleading Advertising

In California, the Legislature has prohibited not only false statements made in attempts to sell goods or services, but also statements which are misleading even though literally true. (Business and Professions Code Section 17500). The following examples illustrate the problems:

1. A seller of tire tubes advertises "XYZ tubes now on sale for 50% off the normal selling price for first line tire tubes." In fact, XYZ tubes are third line tubes and they are being sold at their regular price which happens to be 50% less than the regular price of first line tubes.
2. A seller of carving sets in a full page newspaper advertisement in which several sets are listed, places the following statement conspicuously on the top of the page in large black boldface type: "50% sale—now get 2" and in somewhat smaller letters, "inventory reduction sale." It turns out that the sets are not being offered for sale at 50% off their regular price but that the seller wants to clear out 50% of his warehouse inventory and he is urging customers to help him do so by purchasing two sets instead of one.

The examples of this clever technique are countless. The similarity among the various examples lies in the fact that in each instance, the statements made are literally true in one sense but certainly are bound to convey another meaning to the reader or listener which in many such cases is the meaning which the advertiser apparently hopes to create so that consumers will thereby be misled into purchasing something other than what they expected to receive.

Another type is "Bait-and-Switch" advertising. Bait advertising contains an insincere offer to sell a product or service which the advertiser does not intend or want to sell. Its purpose is to attract consumers in order to sell something else, usually a product of the same type as advertised but at a higher price or on a basis more advantageous to the advertiser.

The "switch" to the more expensive product is accomplished by disparagement of the advertised product when the prospect arrives at the store or when the salesman calls at the buyer's house. The issue is one of intent of the advertiser. For example, the advertiser is not culpable merely because the customer responding is shown other more expensive models. The consumer is entitled to see what is available and compare. However, the salesman who actively disparages the advertised product indicates that the product was never intended to be sold.

Other indications of bait advertising are:

1. The failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised product to meet reasonable anticipated demands, unless the advertisement clearly and adequately discloses that the supply is limited and/or the merchandise is available only at designated outlets.
2. Showing or demonstrating a product which is defective, unusable or impractical for the purpose represented or implied in the advertisement.

#### B. Sales in the Home

Among companies selling products through salesmen who come to the home, a good number set out to mislead the consumer at the time of the initial contact. The idea is to gain entrance into the home by guile (Foot-in-the-door technique) so that the salesman has an opportunity to apply his high-pressure selling tactics. These companies have found that many people do not like salesmen to enter their homes and take up their time. Accordingly, whether the contact is initially made by telephone, mail, in person, or otherwise, the housewife is apt to find that she "has won a contest", has been "specially selected", is being asked to participate in a "survey", will receive "a gift" or will be visited by "an inspector", "a representative", "a demonstrator", "a company official", or "advertising executive", or just about any title imaginable except a salesman.

While the consumer eventually realizes the true identity of the caller as a salesman, the gaining of access to the consumer by deception has long been considered unlawful.

#### Home Improvement schemes:

Despite vigorous enforcement, consumer fraud remains a problem in connection with the sale of house improvements. The best documented examples relate to the sales of aluminum siding and are reported in opinions of the California Courts of Appeal affirming forgery and grand theft convictions.

The salesmen usually work in pairs. In the typical transaction, one of the two salesmen approaches a couple at their residence and introduces himself as an advertising executive for a local home improvement company. After some initial discussion, he tells the victims that an important executive from a large national manufacturer of aluminum siding material (any of the major manufacturers' names may be used) is outside waiting in the salesman's car (commonly a large, expensive, late model) and is prepared to enter the home and offer Mr. and Mrs. Gullible a fabulous opportunity to participate in a national advertising campaign and thereby obtain beautiful aluminum siding for their home at the manufacturer's cost. The second salesman then enters the house and the two proceed to tell the owners that their house is to be used as a "model home" in the area; that "before and after" photographs will be taken and these photographs used on television commercials and in magazine advertisements. In addition to paying only manufacturer's cost for the siding materials, the customers will receive a commission on every future sale

made in their neighborhood as a result of the work performed on their house. According to the salesman, this is the way the manufacturer advertises its products.

Unfortunately for the consumers, the salesmen are in fact simply salesmen and not executives and this is the normal way they induce the unwary to sign contracts for thousands of dollars worth of aluminum siding. More unfortunate is the fact that the manufacturer's "cost" is what the salesmen figure they can squeeze out of their victims (whatever the market would bear). To make matters worse, the salesmen often tell the customers that the quoted price is the complete price for the job when in fact the price did not include all charges - a fact which the consumer often learns only later after receiving a completely filled-in contract and payment book.

#### Book sales:

For more than 35 years, it has been a common deceptive practice of some organizations selling sets of books to cause their salesmen to misrepresent that they are giving away a set of books; that they are not selling anything; that the books are free; that the books are being given free as an advertising plan; that the prospect has been specially selected; and that the only return desired for the gift is permission to use the name of the prospect for advertising purposes and as a reference and that said prospects are paying only for a supplement service at a nominal cost to keep the set of books current. The statements that the books are being given away; that payment is only being made for the supplement service and that the price is a nominal price, are false and deceptive since the price charged is the regular, standard price for both the complete set of books and the supplement service.

#### Magazine subscriptions:

The home solicitation of magazine sales was ranked first in 1968 and 1969 as a source of nationwide complaint by the association of Better Business Bureaus International. The Federal Trade Commission has issued complaints against several magazine publishing companies charging a variety of deceptive practices including the misrepresentation of terms of magazine contracts by telling the consumer he was receiving free subscriptions or reduced rates. Salesmen often pose as students attempting to win a scholarship; the "students" invariably need only "X more sales" to win the scholarship. Other salesmen's tactics to gain entry into the house include posing as survey takers or representatives of charitable or social clubs (YMCA, Boy's Club, Blind People's Groups, etc.). Once entry is accomplished the consumer is subjected to high pressure sales tactics.

#### C. Automobile Sales

A fairly common type of deception in new car sales is:

A customer enters an automobile dealership and discusses the terms of an automobile purchase with a man he believes to be a salesman. This man often has no authority from the dealer to sell an automobile nor to actively negotiate for the sale of an automobile. His purpose is to determine whether or not the customer is a serious potential buyer and if so to obtain from the customer the certificate of

ownership on a trade-in car or a down payment. The customer is then taken to a "manager" who is in fact a high pressure salesman with an adding machine. It is at this time that the real negotiations begin and the customer - already parted from the pink slip and cash - is negotiating under duress. The dealer had no intention of selling the automobile for the price first indicated by the initial contact man. The customer is no longer in a good position to bargain.

#### *Used car sales:*

Legal Aid representatives have cited this as one area where the low-income consumer in particular has been the victim of fraudulent activities. Reports of odometer rollbacks, transmissions filled with sawdust, oral promises which never find their way into the written contract - all are complaints which have been registered with consumer groups.

An additional problem is that such practices are used to sell automobiles to persons who cannot afford to buy the particular automobile and would not buy the particular automobile if the true facts were made known to them.

If there is an eventual default, the automobile is repossessed, and the buyer is faced with a deficiency claim which he cannot afford to contest. After a typical deficiency judgment, the consumer's non-exempt property may be levied upon and/or his wages may be garnished.

#### *D. Debt Collection*

The practices of certain debt collectors have created problems for the California consumer. Legal Aid offices have identified abusive debt collection practices as a significant problem particularly for lower-income, poorly-educated consumers.

Where the abusive practices exist, it is found that many of the alleged debtors do not actually owe the full amount claimed, or they were defrauded. There appears to be a high correlation between deceptive sales practices and deceptive collection practices.

It seems likely that several fly-by-night selling operations investigated by law enforcement agencies would not have been successful if it were not for the unfair and deceptive collection techniques used to find the victims or to persuade them to pay. This is particularly true of those who prey upon poor people in our society. Low-income victims often do not know their legal rights, cannot afford attorneys to defend them in lawsuits prosecuted by the unscrupulous and do not know how to complain to the proper agencies. If they do complain to the local police their complaints are likely to be rejected because of the widespread impression that the only remedy available is for the victim to file his own civil action.

Furthermore, many persons who are unlucky enough to have the same name as a delinquent debtor find themselves subject to harassment, intimidation, and deception. When a skip-tracer traces a debtor to a point where more than one individual fits the description, he is likely to pester each one. Finally, there are also the innocent third parties whose privacy is invaded because they are either related to or acquainted with,

or suspected to be related to or acquainted with an alleged debtor. They are intimidated or deceived into answering prying questions covering their activities, assets, family relationships, employment, and so on.

One skip-tracer prosecuted by the Attorney General obtained much information by mailing questionnaire letters to numerous persons, indicating that he was seeking information for the purpose of locating missing heirs eligible to inherit from various estates. The questionnaires contained questions designed to ferret out debtors and reveal the nature, extent, and location of their assets. They also resulted in the divulgence of a good deal of confidential information. People are normally interested in obtaining something for nothing and their strong motivation in this respect made the questionnaire a successful skip-tracing device.

The Task Force received a good deal of information concerning business practices which are allegedly "unfair" or inequitable. Many of these were found to be outside the scope of the subject matter since no element of fraud, duress, deceit or intentional or negligent misrepresentation appeared. While we believe that the subject matter of "consumer fraud" is broad enough to encompass both intentional and negligent misrepresentation, we do not believe the subject matter can be said to include notions of fair play and equity where deception or misrepresentation are absent. Such consideration entails difficult public policy decisions best left for legislative consideration.

The imagination of bunco and con artists seems limitless. Tools to effectively combat, prevent or eradicate such schemes must be flexible and innovative. A piecemeal statutory approach eradicating one type of fraud as it surfaces is generally impractical. Emphasis should be placed on ways and means of educating consumers, redressing wrongs and punishing fraudulent operators.

The Report, therefore, deals heavily with those State and local bodies best suited for the prevention of, protection against, and eradication of consumer fraud.

By the use of interviews the Task Force has delved into these agencies, studying their responsiveness, their administrative procedures and their coordination with one another.

The basic findings of the Task Force can be summarized as follows:

1. The types of consumer fraud existing in the marketplace are widely varied and California's consumers are continually exposed to potentially fraudulent schemes.
2. Existing laws and remedies are adequate for the most part but are not being utilized fully or innovatively by the proper authorities, and are too often unknown to the consumers.
3. The impact of fraud on the low-income consumer is more significant than that affecting others.
4. The administrative procedures of many of the consumer agencies and bureaus are not now geared to the elimination of fraud.



5. Fraud is not being uniformly investigated and prosecuted statewide partly as a result of lack of coordination between various Federal, State and local offices working in the consumer protection area.
6. A comprehensive, multidisciplinary program of consumer education is needed. A more effective weapon against both old and new schemes is increased sophistication on the part of the intended victim.

The Task Force recognizes that there is no way that government can guide each of California's millions of consumers through the marketplace. The trend, indeed, must be away from a random piling up of additional bureaucracies to "solve" various problems. Too often in government this approach has led to duplication of effort with little or no coordination between different bureaus. To some extent this problem exists in the field of consumer protection, resulting in deficiencies in procedure and prosecution. Functionaries are often uninformed as to which other agencies can handle certain specific problem areas. The result is the "referral runaround" - a problem which today burdens complaining consumers. Failing to find the proper agency for his complaint, the consumer becomes discouraged and ceases his pursuit. When that occurs we lose our most valuable source of information to spot fraudulent practices - the individual consumer. This loss cripples any effort - no matter how diligent - to eliminate fraudulent practices in California.

The present system of consumer protection in California encompasses four main areas: (1) Administrative; the licensing and regulatory boards and bureaus; (2) Law enforcement - Attorney General, district and city attorneys, and sheriff and police departments; (3) Legislature; where attempts are made to deal with problem areas via legislation and hearings; and (4) The judicial system; wherein some offenders and perpetrators of fraud are penalized civilly or criminally.

In studying California's system of consumer protection and action against fraud a clear deficiency emerges. There is a lack of communication among agencies at all levels. What is needed is an efficient network to coordinate the work of agencies so that complainants are directed to the proper one and so that fraudulent schemes are identified.

This coordination and cooperation can best be attained through the Department of Consumer Affairs which could set up a network for liaison, referral procedures and exchange and gathering of information.

There were some areas which, although investigated, the Task Force concluded were outside its scope. Two of these were (1) problems involving stocks, franchising and other business schemes which are more commercial than consumer related; and (2) auto repair problems. While auto repairs are a significant source of consumer complaints, a Bureau of Auto Repair has recently been created to deal with such problems. This bureau is much too new for us to be able to make any judgment as to its effectiveness in resolving the problems in this area.

There is no segment of the marketplace immune from potential fraud. Fraud is dynamic and expanding and cannot be precisely categorized. The imaginative ability of the fraudulent operator knows no limits. Although consumer fraud probably cannot be eradicated, it can be curtailed by effective, alert and imaginative prevention and enforcement - prevention through education of consumers and agencies; enforcement through trained and dedicated personnel.

## CONSUMER AGENCIES SECTION

There are several hundred agencies and authorities which constitute the network of consumer protection in California. These bodies range from Federal to local, public to private, with jurisdiction varying from the very general and wide to the very specific and narrow.

Sincere efforts have been made by these organizations to coordinate some of their activities. They were created at different times by different bodies for meeting varying needs. Some deal solely with regulation of one professional or vocational area. Some specialize in prosecution. Because of this diversity of function efforts at coordination have been only partially effective.

There is certainly need for coordination among all those bodies. The task is not a simple one. Attempts at coordination will have to face a political reality: the jealousy with which each agency cherishes its independence.

Fraudulent schemes cost California's consumers and legitimate businesses millions of dollars annually.<sup>1</sup> In some cases understaffing of consumer agencies is a problem. But it is clear that available manpower could be used more effectively by establishing priorities which would confront consumer fraud more directly. Some enforcement agencies allocate little or no personnel to work on consumer fraud problems. One District Attorney from a large metropolitan area said that his office is unconcerned with consumer problems because such "white collar" crimes do not get headlines. This view is contradicted by the media coverage given fraud prosecutions instituted by those district attorneys who are active in the consumer area. The basic responsibility of local enforcement agencies is to protect the public. Active enforcement of consumer fraud laws fully executes that duty. Action which exposes fraud is covered by the media, and this publicity is important in educating the public and in deterring fraud.

Many agencies operate without full knowledge of existing statutes and regulations available to them in the battle against consumer fraud. Few police and district attorney offices are aware of all the civil and criminal laws which could be employed as weapons against consumer fraud. Indeed, many are not aware of the two standby statutes (Business and Professions Code Section 17500 and Civil Code Section 3369).

The appendix to this report includes a compilation of code sections recognized as being weapons and deterrents against consumer fraud. The compilation is a starting point. With reasonable imagination law enforcement should have little difficulty applying some of the code sections to any old or new fraudulent practices. Such a summary of code sections has been requested by judges, police and district attorney offices, and should be made available to them for their use. The Department of Consumer Affairs could further develop the compilation by a supplemental service to keep this summary current annually.

<sup>1</sup>Magnuson and Carper, *The Dark Side of The Marketplace: The Plight of The American Consumer*, Prentice-Hall (1963)

## II.

# CONSUMER AGENCIES

We are not certain what is required to inspire the change of priorities and reallocation of personnel essential to better protect California's consumer against fraud. While the Governor and the State's legislative leaders cannot order local police, city and district attorneys to follow certain courses of action, we believe that any strong commitments from these leaders would be persuasive.

Every board and bureau in the Department of Consumer Affairs and other enforcement and regulatory agencies commented on their general areas of responsibility. Many cited limits on their jurisdiction as the basic reason for incomplete and inefficient service. Many wish to increase their jurisdiction to provide more service to the consumer. We found that some offices are too quick to turn down a complaint, alleging lack of jurisdiction. Some authority or office exists which can handle any given complaint. Those which are quick to reject a complaint should at least be responsible for referring the complaint to the proper authority. Thorough knowledge of the overall system is essential to establishing the coordination and cooperation required to improve California's efforts against consumer fraud.

Any attempt to eliminate consumer fraud cannot succeed without an efficient method for handling complaints and if necessary referring them to the appropriate agencies. Follow-up of referrals would discourage inaction on complaints and would promote communication and cooperation among the agencies and offices dealing with consumer protection. It would also help identify agencies which are not fulfilling their responsibilities. The net effect of this would be a more efficient use of available manpower. The final result should be resolution of consumer complaints heretofore unresolvable and an increase in public confidence in those offices charged with consumer protection.

The early recognition of a fraud or fraudulent scheme and the speedy referral to the appropriate agency for appropriate action are essential if we are to have an effective program of consumer protection.

Certain agencies, such as the Attorney General and the district attorneys are able to enjoin and prosecute fraudulent schemes affecting large numbers of people which have a statewide impact. Other consumer agencies are equipped to resolve complaints on an informal basis but may not have the necessary personnel or legal authority to prosecute frauds.

We need greater emphasis on obtaining restitution for the defrauded or injured consumer. The person complained against is subject to license suspension or revocation, and criminal prosecution, but the consumer has neither received his money back nor what he bargained for.

The implementation of these changes can be accomplished within the existing structure. The Consumer Affairs Act which created the Department of Consumer Affairs provides in Section 310 that the Director shall ". . . assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interest of consumers." It is in regard to these concepts that the Task Force examined the agencies involved with consumer protection.

## RECOMMENDATIONS

### CONSUMER AGENCIES SECTION

The Task Force recommends that:

1. Regulatory and prosecuting agencies reevaluate their priorities to place consumer fraud at a higher level than before, and reexamine the use of personnel.
2. Agencies and offices involved in consumer protection and consumer fraud pursue make concerted efforts to coordinate functions.
3. The Department of Consumer Affairs distribute the compilation of code sections (the appendix to this report) to judges, police, sheriffs and district attorneys throughout the state.
4. The Department of Consumer Affairs annually update the compilation.
5. Every office receiving complaints from consumers be certain their receiving personnel have a thorough knowledge of the other offices active in the field.
6. All offices involved in the receipt of consumer complaints develop follow-up procedures on referred complaints.
7. There be greater emphasis upon obtaining restitution for the defrauded consumer.
8. The Director of the Department of Consumer Affairs take the initiative to coordinate the various governmental offices involved in consumer protection (as mandated by Section 310 of the Consumer Affairs Act).

III.  
DEPARTMENT  
OF  
CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS

California is one of the first states to develop a Department of Consumer Affairs. There had been a history of ineffective consumer fraud prevention programs in the Office of the Consumer Counsel for the State and the old Department of Professional and Vocational Standards. The Office of Consumer Counsel was interpreted as the complainant receiving center, although there was little actual referral or resolution of the complaints received. The office was also viewed as an advisor to the Governor and as an advocate for the consumer statewide. Personnel and budget reductions hampered these efforts. Moreover, in its last years the office failed to testify before the Legislature for or against legislation affecting the consumer. The Department of Professional and Vocational Standards consisted of various licensing boards advising and regulating businesses on ethical standards and licensing laws within the narrow confines of a given professional or vocational area with minimal emphasis on assisting the consumer in the resolution of complaints.

The Governor's Office and the Legislature grappled with the problem of a need for a department to operate effectively in this area for several years, and in 1970, through a reorganization program designed to give Californians a consumer-oriented department at the state government level, the programs of the Office of Consumer Counsel and the Department of Professional and Vocational Standards were combined into what now exists as the Department of Consumer Affairs.<sup>1</sup>

The main legislative mandates to the Department and Director are:<sup>2</sup>

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers;
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions;
- (c) Assist, advise, and cooperate with Federal, State, and local agencies and officials to protect and promote the interests of consumers;
- (d) Study, investigate, research, and analyze matters affecting the interests of consumers;
- (e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information;
- (f) Propose and assist in the creation and development of consumer education programs;
- (g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services;
- (h) Advise the Governor and Legislature on all matters affecting the interests of consumers; and
- (i) Exercise and perform such other functions, powers and duties as may be deemed necessary.

<sup>1</sup>The Governor's Reorganization Plan No. 2 of 1970.

<sup>2</sup>The Consumer Affairs Act (California Business and Professions Code Section 300 et seq.)

appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.

The director may create an interdepartmental committee to assist and advise him in the implementation of his duties. The members of such committee shall consist of the heads of State departments, or their designees.

The director shall submit to the Governor and the Legislature during the month of December prior to each regular session of the Legislature a full and accurate report of the activities of the Department relating to consumer affairs. Such report shall include recommendations, when appropriate, for legislation which will protect and promote the interests of consumers. A copy shall be filed with the Secretary of State.

The boards and bureaus within the Department license and regulate over fifty industry areas, close to a million persons and businesses in such diverse areas as accounting, healing arts, contracting, auto and electronic repairs and many others.<sup>3</sup> Most of the boards were in operation under the old Department of Professional and Vocational Standards. Since the creation of the Department of Consumer Affairs many boards and bureaus have not significantly advanced from the role of passive licensing agents, with limited powers of discipline and informal settlement. Many of these boards and bureaus, interviewed by this Task Force, indicated that there were common problems and practices with which they are powerless to deal and which, in fact, are not being pursued vigorously and thoroughly by the responsible offices.

A device by which the boards could become more active on behalf of the consumer could be to give them the ability to informally adjust complaints. Two boards, the Bureau of Repair Services and the Bureau of Auto Repair are so empowered.<sup>4</sup> The importance of this power is that it enables the board or bureau to secure redress for the consumer in the form of restitution or having a job completed as bargained for.

While revocation or suspension of licenses or criminal prosecutions against fraudulent dealers are effective forms of discipline they cannot make the injured consumer "whole." Clearly there are cases which demand disciplinary action be taken against the licensee; however, concurrently in a great number of these cases attempts at informal settlement would be of direct benefit to the injured consumer.

The concept of informal adjustment of complaints by boards and bureaus raises some problems. The fact that fraudulent dealers might escape discipline by simply paying back the individual complainant while continuing to defraud others, is a potential abuse. This

<sup>3</sup>The boards and bureaus regulate and license the following areas: Behavioral Science, Chiropractors, Dental, Guide Dogs, Medical, Hearing Aid Examiners, Physical Therapists, Physicians Assistants, Podiatry, Psychology Examining, Nurses Registry, Nursing Home Administrators, Optometry, Osteopathic, Pharmacy, Registered Nurses, Veterinary, Vocation Nurse and Psychiatric Technicians, Accountancy, Cemetery, Collection and Investigative Services, Architects, Contractors, Designer's Qualifications, Geologists, Landscape Architects, Professional Engineers, Structural Pest, Athletic Commission, Automotive Repair, Barber, Cosmetologists, Dry Cleaners, Employment Agencies, Funeral Directors and Embalmers, Furniture and Bedding Inspection, Repair Services, Shorthand Reporters.

<sup>4</sup>California Business and Professions Code Sections 9860-9863 (Electronic Repair Dealers Act); California Business and Professions Code Section 99825 (Automotive Repair Act).

should not occur if the boards refer those complaints which appear to be criminal fraudulent in nature to the local district attorney. If the licensee accedes to an informal adjustment, such would be evidence of his good faith, but should not preclude the board from taking disciplinary action.

Hearing officers presiding over disciplinary actions against licensees, such as construction contractors or plumbers, do not have power to order licensees to make restitution to consumers they have defrauded even if all necessary evidence is before them.<sup>5</sup> Some hearing officers do require the licensee to make restitution as a condition of probation. Other hearing officers and attorneys question the legal propriety of such a condition. Clearly, this remedy is not available if the license is revoked. In addition it would be bad public policy to tempt a hearing officer to keep a crook in business, even with probation, simply to have available a lever to enforce restitution for a handful of consumers whose case histories he has heard.

The procedure we recommend is that the hearing officer be given by state certification power similar to that enjoyed by the Labor Commissioner. That power would allow him to render a decision which would include findings of fact showing fraud on the evidence before him, and if the record permitted, the amounts due and payable to particular consumers. The wronged consumer could then go to Small Claims court where the certified decision would be considered *prima facie* evidence of the findings made. The defendant would be permitted, of course, to rebut the certified findings and the consumer could supplement the findings. If not rebutted or even contested the certified findings would be entitled to the same kind of judgment they would receive if made in court of law in the first instance. Further testimony would probably seldom be required.

There is an overall need for better coordination among all levels of agencies and consumer-oriented programs and a greater exchange of information. Each board or bureau should have the added responsibility of continually reviewing and improving its policies to enforce the law more effectively or regulate the industry as authorized by statute.

The Division of Consumer Services was created during the Department of Consumer Affairs reorganization, and is responsible for implementing many of the requirements of the 1970 Consumer Affairs Act. The Division has become a clearing house for ideas and is developing new procedures to deal with the many problems in the consumer field. It has also become the information resource for the Director, Legislature and Governor, as well as a primary source for devising and distributing consumer informational materials and publicity about the Department.

<sup>5</sup>The Administrative Procedure Act does not and cannot constitutionally give the agencies hearing these cases *judicial* authority.

<sup>6</sup>Labor Code Section 98.5 does not give the Labor Commissioner's decision *prima facie* value, but we see no reason why a statute could not give such value to the findings.



**CONTINUED**

**2 OF 5**

Important functions of the Division of Consumer Services are:<sup>7</sup>

- (1) The development of a one-stop consumer complaint and referral service for all Californians;
- (2) Establishing liaison with consumer organizations, business associations, and other individuals or groups involved in consumer activities;<sup>8</sup> and
- (3) Serving as an information resource for the Director, the Legislature, and the Administration in the consumer field.

This Task Force found that all of the above are essential if there is to be a significant reduction of consumer fraud and an increase in consumer protection. One of the most serious problems in the consumer area is vast number of people who have, or believe they have, a valid grievance in a marketplace transaction but do not know where to go to register their complaint. This Task Force ran public service spots on radio and television all over California requesting consumers to relate their problems. The overriding point gained from the responses was that consumers either did not know where to go to complain or they had tried and were frustrated by being shifted from office to office. It follows that the failure of large numbers of people to register complaints makes it much easier for those who engage in dishonest practices to continue to profit at the expense of consumers and legitimate businesses. Thus, the registration and recording of complaints (and quick referral thereof) are major weapons in the attempt to combat fraud in the marketplace.

Likewise, establishing close liaison with consumer organizations, business associations, law enforcement and prosecution agencies, legal services groups, neighborhood and community organizations is vital to any effort to fight consumer fraud and foster better consumer protection. What is needed is the establishment of clear jurisdictional lines of these offices, a thorough education of their personnel as to precisely which office can best handle a referral; and a procedure to follow up the referral.

The Department of Consumer Affairs' efforts toward developing uniform procedures and forms is another step in the right direction. Such uniformity would extend outside the Department to other offices handling consumer-related cases. The Department has begun to have workshops on proper phone techniques for receiving complaints at the board and bureau level, to foster uniform efficiency. Once a standard complaint form is developed, the goal should be to have the person receiving the complaint by phone or mail record the pertinent facts on the form. Then, if necessary, refer that form personally to the proper office for action. This procedural recommendation minimizes the risk of losing a legitimate consumer complaint by discouraging the complainant through asking him to place an additional call or mail an additional complaint to another office. The Department of Consumer Affairs must take a strong role in this effort among consumer

organizations, business and trade associations and all others involved in consumer activities to build a better consumer protection system in California.

In spite of the establishment of the Department of Consumer Affairs, the Consumer Fraud Unit of the State Attorney General has been receiving complaints at a rapidly increasing rate. With one clerk in the Los Angeles Office and a recording device in the San Francisco office, for example (handling telephone and written complaints) the attorneys in the various offices are forced to spend much of their time responding to written complaints. This would better be the responsibility of clerical assistants.

Even with an increase in clerical assistance the Attorney General's office cannot and should not be the primary complaint referral center. It cannot, because the upward spiral of volume of complaints will inevitably always outstrip the Legislature's willingness to provide adequate staff, thus further burdening the attorneys' time. It should not, because the function of the Consumer Protection Unit should be to prosecute and the majority of every attorney's time should be spent in court and in the preparation of cases to take to court. The logical alternative to the Attorney General's office as the primary place to which most consumer complaints should be referred, at least in the first instance, is, of course, the Department of Consumer Affairs which has been given a number of statutory responsibilities for handling consumer complaints.

The Department of Consumer Affairs, under the 1970 Consumer Affairs Act, has a clear and specific mandate from the Legislature to "receive complaints from consumers concerning . . . unfair or deceptive acts or practices . . ." [Section 325], (sections references are to the Business and Professions Code), "to notify the person against whom the complaint is made, the nature of the complaint [Section 326(a)], (to) transmit any valid complaint to (appropriate) state or federal agency(ies) . . ." [Section 326(b)], (to) advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief." [Section 326(b)]. Section 326(c) makes it clear that the Director is also to review the complaints for violations of law and forward them to regulatory agencies when a pattern of complaints develops, to refer the complaint to the "appropriate law enforcement or regulatory agency . . . or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the Director to discern patterns of complaints to ascertain the nature and extent of action taken with respect to such probable violations or patterns of complaints."

It is clear, therefore, that the Department of Consumer Affairs, not the Attorney General, has been given the primary responsibility for handling most consumer complaints, for detecting the patterns that develop from such complaints, and making referrals for prosecution when appropriate.

The existence of the Department of Consumer Affairs needs continued publicity in all areas and levels of California society as a first step towards successful activity in the prevention of consumer fraud, redress and the punishment thereof. Emphasis on the Department at regional levels is the best way to reach all consumers. Discussions with Legal Aid offices around the state underscore this need.

Another procedure which some boards and bureaus must change regards complaint against nonlicensed practitioners. It has already been noted that the basis of power o

<sup>7</sup>Department Digest (1974), p. 19.

<sup>8</sup>The Task Force believes "other groups" should include law enforcement and prosecution agencies, legal services groups, special interest groups, neighborhood and community organizations expressing interest in the consumer area.



nearly all boards in the Department is the licensing power. Some boards, as well as other licensing agencies, refuse to handle complaints against nonlicensed parties. Unlicensed practices are uniformly a misdemeanor. Procedures must be devised within agencies to record these practices, and in appropriate cases refer them to prosecuting agencies for further action since they are a major source of consumer fraud. Rapid handling or referral of these complaints is a necessity if there is to be the monitoring of ongoing fraudulent activities which is essential to efforts at eliminating some of the fraud in the marketplace.

Other distressing practices of some boards and independent agencies are the breakdown in communications from the executive to the staff level and lack of follow-up on complaints received. Follow-up includes:

- (1) Securing information on referred complaints as to final disposition before closing the file;
- (2) Fully informing the complainant of whatever final action has been taken; and
- (3) Thorough investigation to determine to a certainty that the disciplined party is not continuing business operations in violation of the disciplinary ruling.

Once an effective working relationship among all levels of government is established, attaining such information should not prove complex.

The area of investigation of complaints is another where the Department could improve. Many complaints are registered over delays in the investigation of cases. The Division of Investigation of the Department is currently attempting to train members of the investigative pool to work only with one or two boards, thus gaining specialized knowledge of the standards and accepted practices of one or two professional or vocational areas. This procedure should result in more fully informed and more rapid investigations.

The Department has had difficulty maintaining continuity of its investigative staff. The Division of Investigation has lost over thirty investigators in three years to other state agencies. Such turnover of personnel is inconsistent with developing an investigative staff with the experience essential for maximum efficiency. The Task Force recommends that steps be taken by the Department to eliminate this problem.

Improvement is needed in publicizing disciplinary actions taken (suspensions and revocations). Most licensing or regulatory bureaus and departments have no facilities to publicize widely actions taken against licensees. The public should at least have available information regarding businessmen who have been disciplined and for what reasons. Such publicity would have a two-fold effect:

- (1) It would be one more tool with which consumers could be better informed as to the status and reliability of merchants and professionals offering goods and services; and
- (2) It very likely would serve as a deterrent to those who operate on the borderline and engage in sharp practices. The knowledge that, as part of the discipline for crossing that line, his transgressions would be fully aired could very well create second thoughts in the mind of such a merchant.

Another method of publicizing the consumer services available is a uniform listing style for these services in all phone books in the state. Included would be the regional

office phone number, as well as the number of the boards and bureaus of Sacramento.

The caliber and background of persons appointed to the boards and bureaus within Department of Consumer Affairs determine the effectiveness of these organizations. Task Force agrees with the current trend of appointing more non-industry ("public") members. On the other hand, the trend should not go so far as to eliminate industry representation altogether, for a blend of objective, public interest and specialized industry knowledge is important to the smooth functioning of the boards and bureaus.

The Task Force has recommended procedural reforms to improve the quality of services in the Department. The major need, however, is to place more emphasis on problem-solving at the local level. We recommend that the Department decentralize consumer services. In doing so, the Department would not lose its statewide impact. At the State level it would coordinate with the Attorney General's consumer unit, while regional offices would coordinate with local district attorney consumer units.

This re-emphasis would be neither difficult nor costly. By emphasizing the activities of its local offices, the Department will be providing more responsive consumer services at the "grass roots" level. Activity locally would 1) enable the Department to resolve complaints on a prompt one-to-one basis; 2) expedite referrals to other agencies; 3) overcome the confusing, costly overlap which exists today in California's system of consumer protection. This is caused by the proliferation of city, county and private groups often working at cross-purposes, with no coordination of effort or definition of jurisdiction.

This proposed re-emphasis could be put into effect rapidly by building onto what exists. The Department now has nearly 30 offices throughout the State. Eight are already staffed with investigative personnel. Localization and enlargement of the investigative staff would be made on the basis of population, geography and demography.

For example, if San Jose were chosen for a consumer complaint center, the present office staff there could be enlarged with additional administrative personnel to handle complaints on a one-to-one basis. Referral of many of these local complaints to Sacramento would be eliminated.

We have found that a large number of complaints can be resolved simply by bringing the two parties together, with the Department's representative acting as "middleman." The delays that result from the present referral-to-Sacramento system preclude the relatively simple, direct approach. And delay (perceived to be "red tape" and "the red around") is a major reason for consumer frustration and dissatisfaction at all levels.

Today, the California consumer has *too many* places to go to register complaints. He is confused and often misled. It is not surprising that the many consumer agencies do not cooperate with one another. They were not designed to. Each was created independently in response to a specific problem or set of problems. Merely telling these competing and often jealous agencies that they must cooperate has not and will not compensate for the lack of comprehensive planning by the legislative units which created them.

By re-directing the emphasis of the Department of Consumer Affairs, to strengthen its local offices, it can finally become fully effective. Its mission is to coordinate activities of all those within the consumer protection system and to assure improved responsiveness to consumer complaints.

The Task Force believes that the local office of the Department of Consumer Affairs should become the number one contact point for the California consumer, his questions and his complaints. From there, referrals can be made to other agencies as needed. If the local office of the Department resolves a consumer complaint involving a business licensed by a State agency, the licensing agency should be fully informed of the case for future reference or for further action if necessary.

Local coordination with and between district attorneys, police and sheriff's offices is vital to a successful consumer protection program. To date these law enforcement agencies have not realized their potential as strong enforcement tools in the area of consumer fraud and consumer protection. Lack of manpower is one reason, but available manpower is not being used as effectively as it might in most cases, because the agencies are not thoroughly familiar with statutes available to them and often do not have effective interchange of information.

The newly emphasized regional and local offices of the Department of Consumer Affairs would act as conduits of coordination between local consumer and law enforcement offices and local private consumer assistance groups.

Each Department office would be responsible for 1) educating the other agencies in its locality in the matters of consumer fraud and protection; 2) developing a system for regular exchange of information; 3) developing a method for processing referrals.

Prevention of fraud has been compared to trying to stop the sun from rising. Nevertheless, we believe that greater coordination between consumer groups - public and private - can virtually eliminate some fraudulent schemes at the local and regional levels before the wrongdoers move on. We also believe that this reorganization of the Department offers the only hope to foster genuine, detailed and purposeful coordination of efforts. The regional reorganization could bring all groups together, educate them, establish consistent patterns of activity and develop a cohesion between those whose mission is to protect the consumer. Such a plan would eliminate the strict city or county-limit jurisdictions prevalent today. This is desirable, for the present limits often result in consumer frustration.

Government intervention is only justified when it is more efficient or solves problems that could not be solved by other means. Consensus has it that some governmental intervention in the area of consumerism is justified. So popular has consumerism become that we are, in fact, in the midst of a political and bureaucratic "overkill" response. It is precisely this response and the resulting piling up of bureaucratic instrumentalities which has created confusion and allowed ineffectiveness and unresponsiveness to continue. The Task Force's proposal is aimed at halting that approach, eliminating what has failed, and building on the potential of what has been created.

In its short existence the Department of Consumer Affairs has made headway in establishing a better consumer protection system in California. Much remains to be done, however, especially in publicity, procedures, and establishing inter-governmental and interdepartmental cooperation and liaison, and reorganization.

## RECOMMENDATIONS

### DEPARTMENT OF CONSUMER AFFAIRS

The Task Force recommends that:

1. The boards and bureaus within the Department of Consumer Affairs be given the power to informally mediate complaints.
2. Hearing officers be given statutory certification power similar to that of the Labor Commissioner. The power would allow him to render a decision, including findings of fact and amounts due. Such decision should be considered *prima facie* evidence in Small Claims court.
3. The Department of Consumer Affairs establish liaison with the major private consumer groups. Such groups are often well-informed on problems at the grass-roots level and should have direct lines of communication to the Department. Such liaison would also serve to inform the private groups of current policies and programs of the Department.
4. To increase efficiency of complaint handling, board personnel within the Department record the pertinent facts on a complaint form and personally refer the complainant when referral is necessary. Proper follow-up thereafter would identify which offices within the system of consumer protection do not respond quickly and efficiently to complaints.
5. The Department seek as much public service time on radio and television as possible to publicize its existence and its services to consumers.
6. The boards and bureaus within the Department as well as other state regulatory bureaus, develop procedures to rapidly refer to prosecution agencies those complaints which are appropriate, and those which deal with businesses not licensed as required by law.
7. The Department take steps to insure continuity of its investigative staff.
8. The Department improve methods of publicizing disciplinary actions taken by its boards and bureaus.
9. The Department obtain a uniform telephone listing for all areas of the State.
10. More non-industry persons be appointed to the boards and bureaus of the Department.
11. The Department seek to immediately establish regional offices throughout California.

## ATTORNEY GENERAL'S OFFICE

# IV. ATTORNEY GENERAL AND OTHER STATE OFFICES

In addition to the Department of Consumer Affairs there are other State level offices which are involved in protecting the California consumer from fraud.

The most powerful and potentially effective of these is the California Attorney General's office. Although the Attorney General is known as the chief law enforcement officer of California, he functions primarily as the lawyer to the State and its various agencies and departments.

In the criminal law, the Attorney General's function is basically concerned with the appellate review process and with postconviction problems. He plays a minor role in the initial prosecution of crimes. The primary responsibility for prosecution of criminal actions under the State Constitution is vested in the district attorneys of the 58 counties of the State. In order to exercise primary criminal responsibility the Attorney General must declare that law enforcement has broken down in a particular county or area of the state and consequently he must perform the law enforcement functions until the situation can be remedied. Other than that, the Attorney General has very limited ability independently to prosecute a criminal action in the fraud field, without the concurrence of the local district attorney.

The Attorney General has established a Consumer Protection Unit within his office which has the authority to proceed under a variety of special enactments designed under civil law to protect the purchasers of goods, services, and credit. The Unit operates primarily under Business and Professions Code Sections 17500, 17535, 17536 and Civil Code Section 3369. These sections prohibit untrue or misleading advertising and unfair business competition. These prohibitions have been broadly interpreted and may be used to attack false or misleading representations made, even without the proof of specific intent to deceive, in connection with the sale of any commodity, property, or service. Utilizing these sections, the Attorney General's office has successfully enjoined such misrepresentations and has obtained civil penalties up to \$2,500 per occurrence for false and deceptive advertising and unfair competition. Over the past several years, the Consumer Protection Unit has collected several individual judgments for civil penalties of \$100,000 or more, and at present has an uncollected judgment of \$500,000.

In addition to the injunctive relief and civil penalties available for untrue or misleading advertising, Business and Professions Code Section 17500 also specifies that such actions are a misdemeanor criminal violation and may be prosecuted accordingly. Such violations initially must be taken to the local district attorney for prosecution. Large damage judgments under the civil penalty provisions are a much greater deterrent than the relatively minor punishment or fines under the criminal jurisdiction, hence a criminal action is seldom pursued in these cases. This Task Force believes, however, that the use of criminal sanctions under Business and Professions Code Section 17534 should be encouraged, as they may deter the "fly-by-night" operator, against whom large civil penalties may be impossible to collect.

In addition to the prosecution of civil actions under the Business and Professions and Civil Codes, the deputies in the Consumer Protection Unit often work in cooperation

with local district attorney's offices on cases of mutual interest which must be prosecuted by the District Attorney. In addition, the Consumer Protection Unit develops an annual proposed legislative program based upon its overall experience with consumer complaints.

The Attorney General's office has *statewide jurisdiction* in the matters for which it has primary responsibility. Most of the deputies in the Attorney General's office are involved in civil matters representing State agencies and departments, and only a minority of deputies assigned to the Attorney General's office are involved directly in any initial prosecution of criminal activity. The Consumer Protection Unit contains 14 attorneys and four investigators with which to uphold its statewide obligations.<sup>1</sup> The duty to investigate complaints of false and misleading advertising, unfair competition, and to bring civil prosecutions thereunder, together with legislative work and assistance to district attorney's offices spreads this small staff very thin. The ratio of attorneys to investigators is a significant factor in the Unit's inability to investigate and process more complaints than it does every year. For example, the Los Angeles District Attorney's office which is solely concerned with prosecution matters and which has a fraud unit of seven attorneys, has some 14 investigators who report to and investigate for the attorneys in that division. The Orange County District Attorney's office, which has a Fraud Division containing four attorneys, has an investigative staff of nine investigators.

The Attorney General's office is currently receiving complaints at the rate of 22,000 per year.<sup>2</sup> Of these, only a small number are ever prosecuted to completion in the courts (about 40 per year in the Los Angeles office). A large number are settled by informal negotiations prior to the institution of suit, but an even larger number do not receive thorough processing due to staff limitations. In the Los Angeles office there is one clerk assigned to handle written complaints. This person's activities are limited to mailing out forms and answering the telephone. In the San Francisco office it has been necessary to put a recording device on the telephone, indicating to callers that the office has not sufficient personnel to handle telephone complaints and that a written complaint is required.

The Attorney General's office is becoming increasingly well known throughout the state as a consumer protection agency, even though its offices do not encourage "walk-in" complaints.

The typical complaint handled in the Los Angeles office begins with a telephone call which is received by the "Deputy of the Day", who is one of the general staff attorneys, taken on a rotation basis and not necessarily assigned to the Consumer Protection Unit. The deputy makes the primary determination as to whether it is a matter over which the Attorney General's office has jurisdiction. Additionally, the deputy may determine whether the complaint should be handled by another State agency. If he determines that

<sup>1</sup>Of these four investigators, three are in the Los Angeles Office. Only one investigator is assigned to all of northern California, and even then only one-half of his time is devoted to consumer protection.

<sup>2</sup>The Attorney General's Office received 12,000 complaints in fiscal 1971; 8,000 in fiscal 1970; and 6,400 in fiscal 1969.

it should, he makes a verbal referral to that agency at that time. Although a listing of written referrals is maintained by the Deputy of the Day, no evidence was found that these duty officers are given any briefing on the jurisdiction or abilities of the State agencies to which they may refer a complaint. If the deputy considers the complaint to be one which should be documented, a complaint form is mailed to the complainant for his completion and return. In the last year 12,000 of these written complaints reached the Attorney General's office, it must be supposed that a much larger number were either referred to other agencies or settled on the telephone, or were lost through the ignorance or inertia of the complainants.

The second qualification point for the complaint occurs when the written complaint is received. The deputy in the Consumer Protection Unit will review the complaint and decide what - if any - action should be taken. There is no set time allocated within which a complaint must, or should, be processed or rejected. A reply to the complainant on one of the nearly 50 form letters maintained by the Consumer Protection Unit is usually made within two weeks. The complaint then may be formally referred to another agency for action and the consumer so notified, or the Consumer Protection Unit may request further investigation of the complaint by one of its four investigators. If the complaint is referred to another agency, there is no statistical record kept except by the type of complaint received. The only record of the individual complaint is a copy of the letter of referral. There appears to be no process for following up on the complaint and determining whether or not the other agency has taken action.

The criteria used by the deputies in the Consumer Protection Unit relating to acceptance and prosecution of a complaint depend upon many factors, among which are the existence of other complaints suggesting a pattern of deception in a particular firm or industry; the work required to investigate and prove such misrepresentations; the extent to which the public might be adversely affected thereby; and the likelihood of one lawsuit having sufficient publicity value to deter other businesses from similar conduct in the future. The complaints are filed by the name of the company involved, without any cross-reference to the name of the consumer or type of complaint alleged. If in the investigation of the complaint it develops that a felony criminal act is involved, such as forgery, grand theft or theft by false pretenses, violation of corporate securities laws, conspiracy, or other major crimes, the Attorney General may then refer the complaint to the local district attorney for criminal prosecution. The Attorney General has no authority to force a criminal prosecution, however, and if the district attorney pleads inadequate staff or disinterest in the type of complaint involved, no criminal prosecution follows. This lack of enforcement is particularly significant in some of the smaller counties with limited district attorney staffs and a lack of sophistication or motivation to prosecute economic (as distinguished from physical or violent) crimes. We believe that broadening of the Attorney General's powers to institute independent criminal prosecution would protect and benefit the California consumer.

The Attorney General's office maintains inter-agency communication by means of a monthly meeting in Los Angeles and San Francisco areas with law enforcement officials from city, county, and State agencies which are concerned with consumer fraud. Informa

contact is also maintained between the Deputies in the Attorney General's offices and those deputies in local district attorney's offices and other agencies who are concerned with consumer fraud. There is little aggregation of complaints on a formal, organized basis, thus these informal meetings of persons concerned with consumer fraud could take on increased significance.

In the Southern California area, the investigators involved with consumer fraud also have established an organization known as the Southern California Fraud Investigators Association, which meets monthly and shares its knowledge of the schemes which are prevalent within the various counties involved. The Attorney General's fraud investigators attend these monthly meetings.

The recurring theme throughout this examination of procedures is the significant lack of staff at all levels, from clerical to investigative to prosecution. Failure to log phone complaints; inability to determine how many referrals, either written or by phone, were made; the lack of cross-references within the filing system to facilitate recognition of patterns of consumer fraud; inability to follow-up referrals to other State agencies; selective enforcement of legitimate consumer fraud complaints for want of investigative time; reluctance to accept central complaint pooling because of the additional workload that would be generated — all result from inadequate staffing. No one expects prosecution on *all* consumer complaints, but as a minimum, the consumer fraud agencies - particularly one with the potential of the Attorney General's office - should be able to provide more efficient procedures to receive, evaluate and document complaints.

It seems clear, however, that even with some necessary clerical assistance the Attorney General's office cannot and should not be the primary complaint referral center. It cannot because the upward spiral of complaint volume will inevitably outstrip the Legislature's willingness to provide adequate staff. It should not, because the function of the Consumer Protection Unit should be prosecution, and the majority of every attorney's time should be spent in court and preparing to take cases to court. The logical alternative to the Attorney General's office as the primary place for referral of complaints is to establish the Department of Consumer Affairs as the agency which should initially receive and record them. This is consistent with the statutory responsibility given the Department of Consumer Affairs pursuant to the Governor's reorganization plan implemented in 1970.

Better procedures and added staffing would vastly improve the effectiveness of the Attorney General's office as a weapon against consumer fraud. A minimum improvement would be to increase the ratio of fraud investigators per fraud attorney. An increase in the number of attorneys assigned to prosecute fraud in this state of 20 million people (from the present 14) is also in order. The Attorney General's statutory jurisdiction should be broadened to give him an ability to independently prosecute criminal frauds, without having to rely on the district attorneys' who have overburdened staff or lack the sophistication and expertness necessary to confront such fraud successfully. Once such improvements are made, much can be done between the Attorney General's office and the district attorneys offices throughout the State to establish clear lines of authority and jurisdiction. In addition, swift and sure liaison aimed at facilitating referrals and exchange of information can be established.

Because the Attorney General's office is in a position to exert leadership in the effort to combat consumer fraud, it is essential that these changes be made if California seeks to significantly reduce fraud in the marketplace. The Attorney General should have the ability to prosecute frauds civilly and criminally which have a statewide impact, should serve as coordinator of all prosecuting forces throughout the state charged with investigating and prosecuting fraudulent schemes at local levels.

## RECOMMENDATIONS

### ATTORNEY GENERAL

The Task Force recommends that:

1. The Attorney General encourage district attorneys to use criminal sections of the Business and Professions Code to deter fly-by-night operators.
2. The Attorney General's power to initiate independent criminal prosecutions for violation of State law be broadened.
3. Inter-agency cooperative procedures to facilitate free passage of information between the Attorney General and local law enforcement agencies be developed.
4. Complaint procedures be streamlined so that complaints are received, recorded, cross-referenced and patterns of fraud detected promptly and efficiently. This may require increased clerical personnel.
5. The Department of Consumer Affairs be publicized as the primary agency for referral and receipt of complaints, as per the Governor's Reorganization Plan of 1970.
6. Investigative staff and number of deputies be increased in order to properly prosecute the frauds to which California's 20 million consumers are exposed. Investigative staff ratio should approach 2 per deputy attorney general.
7. The Attorney General assume a position of leadership among law enforcement agencies in the state regarding the prosecution of consumer fraud.

## OTHER STATE AGENCIES

The Task Force recognizes that there are many other State agencies involved in consumer protection activities.<sup>1</sup> Some of these do not presently see themselves as being primarily consumer-oriented; however, the services they render do offer protection to the public.

We cannot overemphasize the importance of all State agencies being aware of consumer problems in their respective jurisdictions. No consumer should be told "we don't have jurisdiction". Yet, in its investigations, the Task Force learned repeatedly that consumer complaints were being turned away by State agencies with this explanation. Each State employee responsible for receiving complaints within his department should be made aware of where and how to refer complaints to other departments if referral is the proper course of action. In any event, he should log all complaints, whether they are to be processed by his department or referred to another. In many cases, too much time elapses between the receipt of a complaint and action on it.

Section 311 of the Consumer Affairs Act of 1970 (California Business and Professions Code, Section 311) provides that the Director of the Department of Consumer Affairs may appoint an Interdepartmental Committee to assist him in carrying out his duties. Such a committee has been formed, but has not met regularly.<sup>2</sup> We recommend that the committee begin at once to meet regularly to attempt to solve some of the problems of complaint-handling and coordination. Each department should be represented by a person without sufficient authority to implement the committee's decisions.

<sup>1</sup>The Department of Consumer Affairs "1972 Information Digest" (pp. 27-30) lists 32 State agencies having authority over consumer matters within their jurisdiction.

<sup>2</sup>The Interdepartmental Committee as set up in 1971 included representatives of Alcoholic Beverage Control Board, Departments of Agriculture, Attorney General, Banking, Corporations, Motor Vehicles, Education, Insurance, Public Health, Real Estate, Savings and Loan, Public Utilities Commission and the Office of Fire Marshall.

## RECOMMENDATIONS

### OTHER STATE AGENCIES

The Task Force recommends that:

1. All State agencies receiving consumer complaints make certain that personnel receiving the complaints are aware of where and how to make referrals when necessary.
2. The Interdepartmental Committee meet regularly.

## V. FEDERAL AGENCIES

### FEDERAL AGENCIES

Several Federal agencies have duties and responsibilities which include consumer protection in varying degrees.

There is justification for reviewing the activities, the successes and failures of Federal agencies by a State government Task Force directed by the Governor to review the impact of consumer fraud on California consumers. First, there is a need to review Federal activity to avoid unnecessary overlapping of State and Federal responsibilities. Second, the most efficient protection of a California consumer results from a coordination of local, State, and Federal agencies with each doing that which it is best equipped to do. Third, the Task Force has concluded that there are at least a few areas in which the *only* effective remedy for consumer fraud is through Federal enforcement.

The Federal Trade Commission is now clearly the dominant force in the consumer movement among Federal agencies. It is worth observing that only a little over three years ago it was accused of relying "too heavily on a voluntary compliance program devoid of effective surveillance or sanctions . . . (with a declining) volume and force of FTC law enforcement . . ." <sup>1</sup> It was also accused of being "preoccupied with technical labeling and advertising practices of the most inconsequential sort." <sup>2</sup> Less temperate critics accused it of being incompetent and industry-dominated. <sup>3</sup>

The Commission's new vitality and effectiveness can only be described as a revolutionary change. In two-and-a-half short years it has emerged as an aggressive consumer advocate which is "testing the limits of its powers by using uncommon strictness and imagination in interpreting and applying the laws it administers. In the process it has been fashioning new and controversial enforcement tools." <sup>4</sup> We shall review some of them.

The Federal Trade Commission's statutory authority to protect the consumer is broad in scope. Its enabling act states that ". . . unfair or deceptive acts or practices in commerce, are hereby declared unlawful." <sup>5</sup> The tools which the Commission has used in the past to implement its authority have been the administrative complaint procedure which culminates in a cease-and-desist order; the assurance of voluntary compliance in which the offending company legally binds itself to stop the offensive practice; and trade regulation rules. The Commission's cease-and-desist and consent orders have been criticized on many grounds. Both types of orders are subject to the criticism that no

<sup>1</sup> Report of the American Bar Association Commission to Study the Federal Trade Commission, September 15, 1969, p. 1.

<sup>2</sup> *Ibid.*, p. 2.

<sup>3</sup> Cox, Fellmeth & Schultz, *Report on the Federal Trade Commission* (Grove Press Edition, 1969).

<sup>4</sup> *New York Times*, May 30, 1972.

<sup>5</sup> 15 USC 45, Section 5(a)(1).



punishment can be inflicted until the orders are disobeyed and that their application is entirely prospective.<sup>6</sup> Thus the Commission's impotence to right past wrongs, to deprive the wrongdoer of his spoils,<sup>7</sup> and bring redress to the defrauded consumer, have led the cynical to conclude that however heinous the offense, the law is satisfied if the wrongdoer promises not to defraud anyone in precisely the same way in the future. He would be allowed to keep his "one free bite".<sup>8</sup>

For 60 years such statutory impotence was accepted with a sigh of resignation. Beginning in 1970, when Chairman Casper Weinberger and later Miles Kirkpatrick, brought a new vitality and imaginative new personnel to the Commission, revolutionary solutions were discovered to be available within previously moribund powers and regulations. With a dazzling array of new ideas the Commission set out to deny dishonest operators that "one free bite", to give redress to the consumer and to take the profit out of lying.

One innovative technique used by the staff has been to require in some consent orders or in the proposed orders for issuance after formal hearings the requirement that restitution be made to the consumers who have been swindled. Another is to require that a false or misleading ad be followed by a "corrective ad" in which the company itself would be required to advertise and expose the misleading qualities of its earlier deception. Also in the advertising field the Commission has proposed that under the "fairness doctrine", television be required to allow "counter advertising" in which consumer groups and competitors would be allowed to challenge statements of fact made about the advertiser's products.

The most imaginative new use of old powers is certainly the Commission's Advertising Substantiation Program. The FTC has always had the power to require industries subject to its jurisdiction to provide it with information and data related to its regulatory responsibilities. However, until 1972, no one considered that such power could be utilized to place the burden on the industry to prove that its advertising claims are true.

<sup>6</sup>One qualification to the general statement in the text is contained in the Wheeler-Lea Act which is a 1938 act amending the original 1914 basic law. Sections 12 and 13 allow an injunction, pending administrative action, to prevent false advertising of food, drugs, liquids or cosmetics. If the commodity advertised is shown to be injurious to health if used as advertised, or if the advertising is with intent to defraud or mislead, the conduct becomes a misdemeanor and subject to up to \$5,000 fine. This penalty can be applied as a first offense. Second offenses merit a fine of up to \$10,000.

However, not only is the scope of the section narrow, but criminal prosecutions, which give rise to the fines, are exceedingly rare, perhaps nonexistent. The first bite still seems to be free.

<sup>7</sup>"One of the eternal and perplexing problems in consumer protection is how to take the rewards out of lying. A great many firms work right up until the time the legal axe is about to fall, then give up, abscond with their ill-gotten profits. Their pocketbooks are undamaged; they cannot be fined unless they violate the injunction. In truth, what we are saying is 'We will let you get away with this once, but if you do it again, we will fine you.' Once for some crooks may be enough to last a lifetime. Besides, their profits can be used as capital to set up shop in another state. What we need is a deterrent to entering into consumer fraud in the first place; if we can guarantee that the operators' profits from their incursion into thievery will be taken away, that lying is not lucrative, their incentive will be considerably diminished." Magnuson and Carper, *The Dark Side of the Marketplace*, Prentice-Hall (1968), p. 70.

<sup>8</sup>This defect in the Commission's powers was repeatedly attacked in the *Nader Report*, Cox, op. cit., pp. 61, 64, 212, 218.

Thus claims that certain tires "stop 25% faster", that an air conditioner is "20% more efficient" than comparable models, that the steel wool soap pad is "the longest lasting" are met with the Commission's stern request to document the claim by supplying the data and information to substantiate it.

Requests for documentation proceed one industry at a time, covering most of the advertisers in each. Trade secrets are protected but the information supplied is made available at the FTC's regional offices for inspection by consumer groups or the general public. The Advertising Substantiation Program has the promise of great benefit to the consumer.

In a recent complaint filed against a door-to-door seller the Commission required what is hoped will be a "doomsday weapon" against the persistent violator. Before entering the home and before any sales representation is made the salesman would be required to hand the consumer a card which states that the visitor is a salesman, not a survey taker, that the purpose is to sell encyclopedias (or whatever) and that the contract will be subject to cancellation unless the consumer reads the card and signs it prior to the salesman's entry into the house.<sup>9</sup> The wisdom of some of these remedies might be debated by some, but none can accuse the Federal Trade Commission of being asleep or uncommitted any longer.

The Federal Trade Commission, more than any other government agency, has seen the need to encourage cooperation and close liaison between Federal, State and local agencies concerned with consumer protection. Consumer Coordinating Committees set up under its sponsorship in 1970 in most of the large metropolitan areas were directed to that end. At their monthly meetings representatives of the various agencies acquainted each other with their own responsibilities, perfected the consumer complaint referral system to insure that the complaints were referred to the agency best equipped to deal with the particular problem, exchanged information upon pending investigations and prosecution in each agency which assisted in directing the consumer complaints to the agency where they would be most valuable, avoided duplication of effort and in various ways worked to maximize the efficient use of each agency's limited resources. For a time significant numbers of consumer complaints were referred to the Federal Trade Commission where vital data was extracted and fed into a computer, which analyzed the consumer complaints regionally and nationally.

The computer function has been discontinued except in San Francisco, and New York where a very much simplified system is in use. The FTC absorbed the full cost of the actual computer expense; however, all participating agencies found the cost in manhours of transferring the necessary information from the consumer's complaint to a form acceptable to the computer was prohibitive. The data produced by the computer nonetheless, provided the first quantitative and qualitative analysis of what the consumer was complaining about. The short term benefits of the computer program were very valuable.

<sup>9</sup>"High Pressure Consumerism at the Salesman's Store", *Fortune*, July, 1972, p. 70. The Commission has since withdrawn the need for the consumer's signature, but still might insist on the salesman presenting the card prior to entry to the home.

Although computer usage has been limited and modified, the Coordinating Committees are still functioning to perform the coordination goals outlined above. We commend the Commission for its early recognition of the value and necessity of Federal-State-local cooperation, and its willingness to do something about meeting the challenge.

Until recently, the Commission also exercised a power to issue Trade Regulation Rules governing an entire industry, such as correspondence schools and monitoring unfair practices, and setting guidelines for certain types of advertising.

For example, one trade regulation rule applied to the food and grocery industry forbids advertising a product at a certain price without having a quantity of goods on hand to meet expected demand. Definitions and carefully worded defenses to a violation are set forth. Another trade regulation rule, the validity of which has been challenged, required the petroleum industry to display the octane rating, according to a prescribed formula, of each grade of gasoline offered.

Similar to trade regulation rules are trade guides which are interpretations of the laws administered by the Federal Trade Commission and thus advisory in nature. An example of their use has been to interpret the proper use of words commonly employed deceptively in advertising, such as "free" and "cents off".

Trade regulation rules are issued only after hearings which include testimony and proposals by industry representatives as well as consumer spokesmen. Most businesses quickly comply with these regulations throughout the industry without the necessity of being sued. Operating under the regulations no businessman need face a competitive disadvantage by adhering to the higher standard of business morality. Unfortunately, the Commission's power to issue these regulations was denied in a recent court decision<sup>10</sup> which has been appealed by the Commission. Senate Bill 986 has been introduced to confirm the disputed but valuable rule-making authority and it has passed the Senate.<sup>11</sup>

We believe continuance of the trade regulation rule power by the FTC is vital to protecting California consumers from fraud. The rules are promulgated only after extensive hearings which include evidence and testimony from all interested parties and after gathering all possible relevant data. Members of the affected industry and consumer groups are notified and encouraged to participate and be heard. Once issued, violations of the regulations become unlawful business practices which the Commission can enforce using concrete and specific terms instead of the vague boundaries of what is "unfair" within the meaning of Section 5.<sup>12</sup> Any attempt by the State to enter the trade

<sup>10</sup>*National Petroleum Refiners Ass'n., et al. v. Federal Trade Commission*, 340 Fed. Supp., 1343 (April 4, 1972), U.S. Dist. Ct. (D.C.)

<sup>11</sup>Similar bills introduced in the House are H.R. 6314 and 4809. These bills deal with many other subjects in addition to the trade regulations rule power. Our support recommendation, therefore, is qualified and limited to the parts of the bill discussed in the text. The Commission has made an objection to a rule of procedure proposed in S. 986 for making trade regulation rules which is a serious one. It would require formal *adjudicative* procedures which could drag on for years, instead of the more informal legislative type hearings on which firm time and procedure limits may be placed.

<sup>12</sup>See footnote 5.

regulation field where national industries are concerned would be doomed to failure. The effort would be under-financed and would not receive the cooperation necessary from industry because of the legitimate fear of facing 50 rules on a subject instead of one.

Trade regulation rules issued by the FTC also offer a unique method of State and Federal coordination which we believe has been unexamined before. Violators of the regulations are by definition engaged in an unlawful business practice. Under California law the Attorney General or any one of the 58 district attorneys may bring, at his discretion, an action to enjoin any "unfair, unlawful or fraudulent business practice".<sup>13</sup> Thus, in addition to the benefit which would derive from the Federal Trade Commission's own enforcement of these trade regulations is the almost unlimited opportunity for California to use its existing law enforcement machinery to enforce these carefully considered and definitive rules of business conduct, either statewide or at the local level.<sup>14</sup>

H.R. 4809, like S. 986, also contains the most important missing weapons from the FTC's legal arsenal. It contains provisions for penalties for engaging in forbidden practices, for preliminary injunctions stopping unfair business practices pending the administrative hearing, and the clear authority to require restitution to the consumer.

Striking the same chord as did Senator Magnuson several years before,<sup>15</sup> Chairman Miles Kirkpatrick recently testified that "... unless the Commission is given the discretionary power to seek redress for injuries suffered, these injuries will remain unremedied. However, there is no surer means by which the Commission can perform its role of consumer protection than by framing its orders so as to ensure that those who have profited wrongfully from proven violations are denied the fruits of the wrongdoing."<sup>16</sup>

We believe these Federal bills are very important to the protection of California consumers and that local law enforcement would benefit in many tangible ways. Accordingly, we urge the Governor to contact each of California's senators and congressmen requesting that during the next session of Congress, they support the reintroduction of similar bills. These bills should include the restoration of the trade regulation rule power and the granting of power to seek injunctions pending the conclusion of administrative action. We believe that they contain - perhaps surprisingly - their authors - untapped possibilities for Federal, State and local cooperation in better

<sup>13</sup>California Civil Code Section 3369.

<sup>14</sup>In 1971, the Legislature passed A.B. 49, which gave California statutory authority to enforce the FTC trade regulation rule requiring disclosure of gasoline octane. The enforcement of this rule was prevented by the decision in *National Petroleum, supra*, footnote 10, thus leaving the statute in limbo. This statutory enactment of FTC rules would be unnecessary under the rationale argued in the text. Always, of course, the decision of whether the state's interests are advanced by the enforcement of the FTC trade regulation rules would rest in the discretion of the state and local prosecutor.

<sup>15</sup>See Footnote 7.

<sup>16</sup>Testifying before the House Commerce Subcommittee on Commerce and Finance, as reported Bureau of National Affairs News (10-5-71), No. 532, p. A-5.

protecting California consumers. This legislation's importance to them is certainly not only the undoubted benefits of helping the FTC more effectively execute its responsibilities, but also assisting California to meet its own.

One reason for this somewhat extended review of the FTC's new vitality is to impress upon State and local agencies; who are pessimistic about the success of even a documented request for greatly increased budgets to meet new demands, that the FTC's revolution occurred almost wholly because of a dramatic change in *attitude*, not manpower or budget. This change started at the top with the Chairman, the Commissioners, and soon made itself felt in every regional office. Increases in staff and budget have been modest<sup>17</sup> especially when compared with expanding American business activity which it is required to regulate.<sup>18</sup>

In summary, the Federal Trade Commission is using all the legal tools at its disposal. However, we believe that the old tools need supplementing to properly protect California consumers. We request the Governor to ask our California congressmen and senators to support a bill giving the FTC new tools to protect consumers not only in California but also in the other 49 states.

<sup>17</sup>The staff of the entire Commission for fiscal 1969 was 1,237; 1,388 for 1972, an increase of 151 or only 12.1%. The dollar increase in the budgets themselves appears at first considerable, but not after discounting the generous pay increases obtained by Federal employees during that three-year period and the large initial costs of commencing the Commission's Truth-in-Lending responsibilities. Source, Annual Reports, Federal Trade Commission, 1969 through 1972.

<sup>18</sup>Gross National Product, 1969, \$930.4 billion; 1972, *annual rate* through second quarter, \$1,139 billion, a 22.4% increase. This figure, of course, must be discounted some because of inflation. Source, United States Department of Commerce, San Francisco Office. We recognize the limitations of this index for the purpose for which it is used; however, no better index appears to be available.

## THE UNITED STATES POSTAL SERVICE

"Mail order purchases represent the largest and until now the most neglected marketplace abuse confronting the American consumer", . . .

according to Congressman Benjamin S. Rosenthal who has made an extensive review of consumer complaints on the subject.<sup>19</sup> Congressman Rosenthal indicated last year that the Postal Service received 135,000 complaints from consumers relating their experience with mail order purchases.<sup>20</sup> The Regional Postal Inspector in San Francisco says that 37% of his mail from the public concerns this subject, and every tabulation of consumer complaints, including those made by the San Francisco Better Business Bureau,<sup>21</sup> the Federal Trade Commission's Coordinating Committees,<sup>22</sup> and the Attorney General's office, has confirmed Congressman Rosenthal's conclusion that although the average individual loss is small compared to many other consumer frauds, it is quantitatively the most serious abuse nationwide to the United States consumer.

Typical complaints concerned a total failure to deliver goods ordered or an excessive delay in delivery from three to six months or more. This latter delay is frequently caused by a "kiting" of orders in which the advertising seller has very little or no inventory of orders from the manufacturer only when he has accumulated enough retail orders for a volume discount purchase. Such practice may not amount to *criminal* mail fraud, but is a very unfair business practice which should be stopped. Large numbers of complaints note advertisements of "money back guarantee" too frequently mean that only months of delay, several letters and complaints to the Better Business Bureau and the Attorney General's office will the truly tenacious be repaid. And, many complaints made that the quality of goods received is shoddy and far from the quality described in the advertised. Requests for refund on such inferior goods are almost always ignored.

We are aware the United States Postal Service is as concerned about this problem as the Task Force or any of the consumer groups who have commented on this problem. During Fiscal Year 1971 a Consumer Advocate was appointed to report directly to the Postmaster General on consumer problems involving the Postal Service. At the regional level the Postal Inspector's office has been working on a number of ideas, one of which will be commented on subsequently. The General Accounting Office of the United States Government is reviewing the complaints received by the Postal Service and its practice of handling the complaints and dealing with the problems they pose. Unfortunately,

<sup>19</sup>See his remarks in the *Congressional Record*, 3/27/72, pp. E 3120-3.

<sup>20</sup>*Ibid.*, p. E 3121.

<sup>21</sup>In a special in-depth report of all complaints received by the San Francisco Better Business Bureau for a three-month period in 1970 (dated 3/5/70), 22% of the complaints received related to mail order purchases, not counting an additional 10% of the complaints against magazines and books, which utilize the mails for delivery.

<sup>22</sup>During one year of the time that the Coordinating Committees sponsored by the Federal Trade Commission utilized a computer nationally, failure to deliver, excessive delays in delivery, and to make refunds ran 20% of a total of 17,000 complaints received.

this date, no conclusions or recommendations have been reached by any of these agencies.

State efforts to remedy this essentially Federal problem have been totally ineffective. Business and Professions Code Section 17538 enacted a year and one-half ago, requires a person in a mail order business to deliver merchandise within six weeks or make a refund. The law has loopholes to permit longer delays. It has had no effect on the volume of consumer mail order complaints. Also, the law contains insufficient enforcement provisions, either for the consumer who has lost his money, or the State or local law enforcement agency who may wish to take remedial action. It would be necessary to show a pattern of delay or failure to deliver exceeding six weeks (and not permitted by any of the loopholes) before any action could be brought. In addition, a large number of the complaints are against companies whose life expectancy is very short. Thus enforcement would be, for those, too late. The problem of obtaining jurisdiction over out-of-state mail order companies and enforcing final court orders against them is so formidable that State and local action against mail order fraud seems very unlikely. We share the conclusion reached by the Attorney General of Oregon that "Strict and clear Federal standards in this area would be most welcome."<sup>23</sup>

Some commentators on the mail order problem have suggested strict bonding and licensing requirements for mail order companies. These are among the suggestions made by Congressman Rosenthal.<sup>24</sup> We believe such solutions to be unnecessarily bureaucratic, expensive and difficult to enforce. Wrongs to thousands of consumers would never be brought to the attention of the licensing agencies, their enforcement staff would undoubtedly be unequal to the enormous task and would operate in an after-the-fact manner, after hundreds or thousands of losses had already occurred. Such late enforcement would be exceedingly unlikely to include redress to the consumer for his loss.

We believe these weaknesses can be avoided by a totally different but direct approach.

The solution that the Task Force favors has as its basic principle one which was considered by the staff at the Regional Postal Inspector's office in San Francisco: simply require that all mail order companies deliver the merchandise prior to requiring payments or handle the transaction as a C.O.D. or credit sale.

There are three different aspects to this solution: 1) delivery on approval, 2) C.O.D., and 3) credit sales. We shall examine each separately.

As to delivery on approval, many businesses, have traditionally operated in this manner, such as book and record clubs, stamp vendors, clothing companies, men's and women's accessories. These companies have additionally allowed the consumer to examine the merchandise involved before asking for payment. To the businessman who believes he cannot trust the consumer to pay for goods ordered (although he has always expected the consumer to trust him to deliver), and especially those who operate on a

<sup>23</sup>As reported by Congressman Rosenthal in the *Congressional Record*, May 27, 1972, p. E 3121.

<sup>24</sup>*Congressional Record*, op. cit., p. E 3122.

large volume of low mark-up items at small sales prices, we point out that he can always seek the protection of the Post Office's Collect-On-Delivery procedure, or handle it as credit sale. The small additional charge to the consumer for the C.O.D. service would more than be offset by the benefits the procedure would bestow, such as permitting the consumer to keep his money and the use of it until the seller shows himself willing and able to deliver.

Two companies in the mail order business which have always sent their merchandise on approval before requesting payment and yet have been profitably operated are Fingerhut Corporation of Minnesota, and New Process of Warren, Pennsylvania. The latter sells an extensive line of men's and women's clothing. Fingerhut sells clothing, too, but also small appliances, home furnishings, home entertainment, recreation and travel items, tools, and so on. Net profits of these companies, both as a percent of sales and of net worth have been excellent as compared to leading retail corporations.<sup>25</sup> It seems that the mail order business is a lucrative one when financed by the entrepreneur, as classical economic theory says it should be, instead of the consumer.

Admittedly, Fingerhut and New Process do have large provisions for bad debts and significant proportion of high mark-up items to cover a percentage of failure-to-pay. Not all companies appeal to markets where this is possible. However, where economics compels it, the C.O.D. procedure is available as protection against the consumer's failure to pay.

Of course, the vast majority of mail order businesses handling probably 90% of the dollar volume of such businesses, such as Sears, Ward, Spiegel, Aldens, etc., have handled almost 99% of their business either on credit, C.O.D. through the post office, or cash-on-delivery at the catalogue desk. The above proposal would affect them not at all. None operates on a "cash before delivery" policy. Failure to deliver or complaints about excessive delays in delivery involving these firms are almost non-existent, and even failure-to-make-refund complaints are very rare.

It is obvious that the 135,000 complaints about mail order problems cited by Congressman Rosenthal stem from a sizable number of small mail order businesses. They sell low-cost items from advertisements which require cash at the time of order. They have usually not dealt with the consumer before and may not again. Such businesses might object to establishing credit worthiness of the consumer before delivery (the ob-

<sup>25</sup>(Figures are for 1971)

|                                               | Net Profit as a % of Sales | Net Profit as Return on Net Worth |
|-----------------------------------------------|----------------------------|-----------------------------------|
| FINGERHUT                                     | 4%                         | 11%                               |
| NEW PROCESS                                   | 9%                         | 50%                               |
| ASSOCIATED DRY GOODS (Robinsons)              | 3.5%                       | 10%                               |
| BROADWAY HALE (Capwell's)                     | 3.5%                       | 10.9%                             |
| FEDERATED DEPARTMENT STORES (Magnin-Bullocks) | 3.9%                       | 11.9%                             |
| SEARS, ROEBUCK                                | 5%                         | 12.5%                             |
| PENNEY'S                                      | 2.4%                       | 15%                               |

Source: Fairchild's *Financial Manual of Retail Stores*, 44th Annual Issue.

fashioned manner of requiring a completed credit application which would be checked with local credit agencies) on the basis of being unreasonable and too costly. C.O.D. would be available in such cases but would probably mean added cost to the consumer. Admittedly, either is more costly to the merchant than cash in advance. However, our purpose here is to fill "gaps in the law" where the consumer is being injured, not to focus our concerns on protecting the *status quo* in an area where the consumer has too frequently been the victim. If there are options such as we here proposed to "cash in advance", the seller should take those options or take the greater risks of delivery on approval without prior credit checks.

There is another business procedure which could be utilized to reduce the seller's risk and cost in extending credit and at the same time eliminate failure-to-deliver and excessive delay complaints. More and more, mail order businesses offer the consumer credit through bank credit cards or the principal entertainment and travel cards. The consumer simply writes the card name and number in a space provided on the order. The seller need not worry about the buyer's credit worthiness, since this is the burden of the card-issuer. If seller is forbidden by law to execute the charge until he mails the merchandise<sup>26</sup> - a requirement whose fairness to both parties seems beyond question - then the failure-to-deliver and excessive delay in delivery complaints become matters for the card plan institutions to resolve.

This has obvious advantages for the consumer, for the seller and for the Post Office. At one time it could have been argued that reliance on credit card purchases as opposed to cash-in-advance would unduly restrict the number of qualified buyers. However, with the two largest card systems alone offering 30 million cardholders<sup>27</sup> in addition to the millions who hold other bank cards, major travel, entertainment and oil cards which are available for the purchase of merchandise, the number of people who can utilize credit cards for mail order purchases is very large and increasing steadily.

It might be feasible, therefore, to require by appropriate statutes, a mail order purchase system which forbids requiring cash in advance, permits credit card sales if the charge is executed only when the merchandise is mailed, and allows the C.O.D. system to be used to reach the buyers not having or wanting to use credit cards or where the seller does not choose to utilize them. Of course, delivery on approval, without prior credit approval, so successfully utilized by New Process, Fingerhut and book and record clubs would function as before, as would charge account sales.

There is one further refinement which would lessen the impact of the above recommendation upon these businesses about which few complaints are made and thus are *not* part of the problem. Because the vast majority of the complaints concern purchases totaling less than \$30, purchases in excess of that figure could be eliminated from the new law's coverage.

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<sup>26</sup>In fact, most card issuers now accept such responsibility by contract with the seller.

<sup>27</sup>Andrew Brimmer, Member Bd. Governors, Federal Reserve Board, speech September 7, 1972, before National Economist Club. Of course, there is considerable overlap between card systems, with most cardholders having more than one.

Our recommendation that Federal law forbid solicitations for mail order purchase under \$30 which require payment before delivery is an unusual but creative solution to the mail order problem. We believe it is neither radical nor bureaucratic. Enforcement would be simple and inexpensive. We urge the Governor to request the senators and congressmen from California to sponsor such legislation to cure mail order problems at national level.

Recognizing the lethargic pace at which the Federal legislative system operates, we recommend an interim state legislative solution. A State law could make it unlawful to solicit from a California citizen in California a mail order purchase under \$30 which does not require that the merchandise be delivered either prior to or at the time of payment (i.e., C.O.D.). The statute should also contain a provision for State or local law enforcement agencies to recover their investigative costs and reasonable attorneys' fees as part of any court order enforcing this law.

We urge that this recommendation be adopted.

UNITED STATES DEPARTMENT OF AGRICULTURE  
AND THE FOOD AND DRUG ADMINISTRATION

The Department of Health Education and Welfare, houses the Office of Consumer Services which coordinates and reviews HEW's consumer-related programs and the Public Health Service. The PHS consists of three operating agencies: the Food and Drug Administration, (FDA); Health Services and Mental Health Administration; and National Institute of Health.

California consumers probably are more familiar with the Food and Drug Administration than the others since a regional office in Los Angeles. Its major mandate is the Food, Drug and Cosmetic Act of 1938. The FDA complies with this mandate by means of inspections, seizures of unsafe products, prosecution of violators and injunction proceedings to keep additional quantities of unsafe products from reaching the marketplace. The FDA more recently has been engaging in what is termed "Voluntary Recalls." The FDA asks companies to call products back when they believe the product is hazardous, mislabeled, contaminated, or does not meet certain requirements. This recall procedure is used for major and minor defects. A report on the subject by the House Committee on Government Operations pointed out that there is no statutory basis for the use of recalls by FDA; therefore, the "FDA cannot legally enforce its requests or demands for recall action." The Committee further observed that the FDA has been remiss in not developing rules for the use of recalls, and it criticized the FDA's overuse of the recall in recent years as having reduced whatever value it originally offered.

In this report rather than looking at the reorganization as it would apply at a Federal level the Task Force wishes only to consider how the local FDA office relates to other enforcement agencies and ultimately to the consumer within California.

For four years the FDA has had a recorded telephone message which alerts consumers to possible dangers in the marketplace which are under its jurisdiction (e.g., lead-leaching pottery). Little (if any) publicity has been given to this service and most consumers are unaware of its existence.

The Federal headquarters in Maryland issues weekly recall reports and press releases. The regional office on many occasions is totally unaware of what the Maryland office has issued and is of no help to the inquiring consumer.

Many important proposals are made by or to the FDA which are open to comment from the public. However, this information is not disseminated by the FDA. It usually appears only in the Federal Register. If the consumer does not know about these proposals (e.g., whether certain chemicals should be allowed in our foods) he cannot comment on them. The regional office should help disseminate this information to the public.

Congress considered a proposal this year to establish a separate Federal agency to take over the jurisdiction of the FDA. This would be an all-encompassing consumer protection agency separate unto itself rather than under the jurisdiction of HEW. This proposal demonstrates the need for the FDA to become more responsive to the consumer. It also prompted the FDA to change its "in-house" publication *FDA PAPERS* to a publication

called *FDA CONSUMER*, available to all consumers for \$3.50 a year. While the publication does contain valuable information for the consumer it, too, has been given little publicity.

The FDA is one of the most important Federal agencies so far as the consumer is concerned. The recently-created Consumer Product Safety Commission is likely to become another.

The Consumer Product Safety Act, enacted by Congress in October, 1972 established a five-member commission (seven year terms, by Presidential appointment) and empowered it to collect and evaluate information and -- where it finds a need -- develop product safety standards or ban the product outright.

The Act applies to any consumer product except tobacco; articles not customarily produced or distributed for sale to retail consumers; motor vehicles covered under the National Traffic Motor Vehicle Safety Act; poisons covered under the Federal Insecticide, Fungicide and Rodenticide Act; firearms subject to tax under Section 4181 of the Internal Revenue Code; drugs, medical devices, cosmetics or food covered under the Food, Drug and Cosmetic Act; aircraft subject to regulation by the Federal Aviation Administration; and vessels covered by the Boat Safety Act of 1971. Imported products not complying with the Act will be refused admission to the United States. Export products are not subject to the Act if properly labeled.

Essentially, the CPSC is acquiring many of its responsibilities from the FDA. The Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act and the Refrigeration Safety Act are existing laws that are to be transferred for administration by the CPSC.

The U.S. Department of Agriculture consists of four divisions. *The Agricultural Research Service* does research and publishes numerous booklets. Its research is done in nutrition, family budgeting, gardening, methods of processing and storing food and new uses for fibers and fabrics. It also requires pesticide makers to register products, giving proof of safety. It can seize shipments not in compliance with the law.

*The Consumer and Marketing Service* inspects meat, poultry, eggs and their products. It also inspects processing plants and slaughterhouses. It can ban the sale of substandard products. It also licenses warehousemen, dealers, brokers, and commission merchants handling fresh and frozen meats, fruits and vegetables. It establishes standards of identity for certain products. After a standard has been set a manufacturer need not label the product as to content. It also sets the standards for the grade labels.

*The Extension Service* prepares and distributes consumer information. It also attempts to set up consumer education classes for the low-income consumer. It supports state extension offices of land grant universities. Consumers may phone, write or stop by for help.

*The Food and Nutrition Service* administers food programs through State agencies, supplies food stamps, and donates food and money to schools and needy adults.

While the USDA is more active in the consumer education field than the FDA there is still much room for improvement. The Department is able to provide many services to California consumers, but the average California consumer does not know they exist.

A more dedicated effort should be made to teach California consumers how to shop for meat, what the inspection stamps and seals mean, about standards of identity, how to read labels, etc.

The USDA, similar to FDA also often considers proposals which are open for public comment. Seldom if ever does the consumer learn about these (e.g., to allow Tuberculin-infected meat to be used in processed products, or cancerous chickens to be passed for human consumption).

The USDA has the publicity arm and the material to make all of this information available to the consumer. It should return to its original goal: to help protect and educate the consumer, rather than devote most of its time and money to the livestock producer and farmer.

The Task Force recommends that the Department of Consumer Affairs aid in distributing USDA and FDA and other Federal consumer literature to California consumers. Currently, the Department has become a clearinghouse for numerous consumer-aid publications. The distribution could also become a function of the proposed regional offices, thus reaching California consumers at local levels.

## RECOMMENDATIONS

### FEDERAL

The Task Force recommends that:

#### *Federal Trade Commission*

1. The trade regulation rule power of the FTC be continued inasmuch as it is vital to protection of California's consumers.
2. The Governor contact California's U.S. senators and congressmen to urge their support of the concepts found in SB 986 and HR 4806.

#### *U.S. Postal Service*

1. All mail order businesses be prohibited from requiring payment before delivery of merchandise.
2. California's U.S. senators and congressmen sponsor legislation in conformity with above proposal.

#### *USDA/FDA*

1. The FDA widely publicize its recorded telephone consumer alert program and its *Consumer* publication.
2. FDA take steps to coordinate its various consumer services through its local offices.
3. The USDA publicize its activities to consumers for their information and comment. The FDA and USDA must seek to inform consumers about their proposals, so consumers are informed of the standards, and programs.

## LOCAL CONSUMER PROTECTION/ENFORCEMENT AUTHORITIES

There are three official local level offices with varying powers and abilities to assist with consumer problems. They are city and county bureaus, police and sheriff departments, and district attorneys. The activities, problems and potentials of each will be discussed in the following section.

VI.

# LOCAL CONSUMER PROTECTION/ENFORCEMENT AUTHORITIES



## DISTRICT ATTORNEYS

The county district attorney has primary responsibility for the prosecution of violations of California law.<sup>1</sup> There are 58 counties in California which vary in size from Los Angeles County with its millions to Alpine with fewer than 1,000 people. It is not surprising that the legal action taken against perpetrators of consumer fraud crimes varies greatly from county to county. At present there are 10 district attorneys' offices which have fulltime consumer fraud staffs.<sup>2</sup>

Those statutes most commonly employed by district attorneys in prosecuting consumer fraud cases are the general theft provisions of the Penal Code (Sections 484, 487, 488), theft by false pretenses (Penal Code Section 532), the forgery statutes (Penal Code Section 470), the prohibition against false or misleading advertising (Business and Professions Code Section 17500) and violations of the Unruh Act (Retail Installment Sales Act, Civil Code Section 1812.6). The district attorney is specifically authorized to seek injunctions and civil penalties (up to \$2,500 per violation) for acts of false or misleading advertising or other instances of unfair competition (Business and Professions Code Sections 17535, 17536; Civil Code Section 3369).

In the field of consumer protection the activities of the district attorneys may be divided into two broad categories: 1) prosecution based on regulatory statutes administered by other governmental agencies and; 2) the enforcement of the provisions of the Civil Code, Penal Code, and Business and Professions Code sections which are designed to protect the consumer from fraud and deception.

In those matters involving the violation of a regulatory law principally administered by a State agency (e.g., State Board of Dry Cleaners or Bureau of Repair Services), the district attorney usually receives a referral for prosecution after investigation by the particular State agency. In such cases the district attorney is acting as the prosecutor for the State agency.

The district attorney's broadest direct concern in the field of consumer protection relates to matters in which fraudulent misrepresentations are involved or in which there is some basis for believing that the misrepresentations were intentional. These "hard core" consumer frauds may be criminally prosecuted by the district attorney as acts of theft or other violations of the Penal Code. In most counties, the investigations of confidence games or swindles are handled by the local police department or sheriff's department. Police departments in some of the larger cities have special fraud departments or "bunco" squads which do nothing but investigate various fraudulent schemes. The same is true in the sheriff's offices of some large counties. For the most part, however, fraud is investigated by police departments and sheriff's offices around the state by the same

<sup>1</sup>See California Constitution, Art. V, Section 21; also *People v. Brophy*, 49 C.A.2d 15.

<sup>2</sup>At the date of this writing those which had at least one man full-time (attorney and/or investigator): Alameda, Contra Costa, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo, Santa Clara, and Ventura counties.

personnel who are involved in the investigation and apprehension of those involved in gambling, armed robbery, homicide and vice. For this reason, in many investigative agencies fraud has a low priority, for its detection involves a great amount of detailed investigation, record checking and the interrogation of a large number of witnesses. Therefore, this is not the most popular type of case to a detective or officer who carries the everyday burden of solving robberies, burglaries, and homicides.

The district attorney may elect to seek civil or criminal sanctions in the prosecution of consumer fraud cases. Where the criminal prosecution is for the misdemeanor offense of untrue or misleading advertising (Business and Professions Code Section 17500), the penalty is a fine of up to \$500 or six months in jail for each offense (See Penal Code Section 672). Where the offense is a felony prosecuted as theft, the penalty may be as great as 10 years imprisonment. On the civil side, the district attorneys are expressly authorized to seek injunctive relief against false advertising (Business and Professions Code Section 17535) and unfair competition (Civil Code Section 3369[5]). Under Section 17536 Business and Professions Code, the district attorney may seek a civil penalty of up to \$2,500 for each occurrence. If the action is taken by the district attorney rather than the Attorney General, the county general fund is the recipient of the whole penalty so exacted.

Considering the broad powers of enforcement invested in the district attorney, it would seem that consumers are adequately protected against fraud in their community marketplace. Unfortunately this is not true. The rapid growth of consumer fraud has placed all governmental agencies, local and state, at a disadvantage. Some district attorneys are attempting to fulfill their responsibilities, but lack of adequate legal, investigative and clerical staff may cause these efforts to fail. Some district attorneys' offices have not even attempted to establish procedures for the detection and prosecution of consumer frauds. Reasons for this failure vary from lack of staff, lack of complete knowledge of breadth of responsibilities and powers, little or no working coordination with State agencies and offices, to an attitude that action in the consumer fraud area does not result in media headline coverage.

To remedy this, district attorneys and local and county police agencies must get together and establish effective methods of operation against consumer fraud. They must open up networks for instant transmittal of information concerning confidence schemes which move from one area of California to another.

Most district attorneys interviewed said that initial investigations of fraud complaints should be handled by police rather than the district attorney's office, due to their lack of manpower. Police and the district attorneys throughout the state must work out thorough and detailed methods of operation, outlining which functions can best be handled by the respective offices, and build up personnel and procedures for implementation. The difficulty is that the staff required must be paid for by budgets established by local boards of supervisors or city councils, which assign a low priority to the detection and prosecution of consumer frauds. Often these local legislative bodies have little understanding of consumer fraud problems and the impact these frauds have on the public.

Many district attorneys also suggested that trade associations, by better policing their respective industries, could be valuable aids in preventing fraud and incompetency. While attitudes of business and trade associations have grown more progressive with increased consumer fraud, it is wishful thinking to believe such organizations can control flagrant violators. The district attorneys should counsel the associations on how they can provide the most assistance in detecting and deterring fraud within their industries.

What is needed is a means of making the majority of district attorneys and their source of funds, the county boards of supervisors, aware of the incidence of fraud being perpetrated on the consumer, and a means of obtaining a commitment to enforce that area of the law equally with the enforcement of the law against the more prosaic crimes. As the larger counties refine their anti-fraud activities, the rural counties can expect to receive more attention from the fraudulent operators. This fact was evident in the aluminum siding cases of a few years ago.

Each district attorney's office should have at least one deputy who is attuned to and conversant with the laws relating to consumer fraud, so that he can act as an advisor to the local police department in investigating and preparing prosecution reports on these activities. One or more investigators in each district attorney's office with fraud training and responsibility would be a great additional aid. Once a commitment to a fraud program has been made, the Attorney General, as the statewide law enforcement officer, could play a vital role through providing training sessions in the law, detection and prosecution of fraud. These sessions might be held in connection with the Attorney General's zone meetings, and it is almost certain that he could call on the assistance of the district attorneys and police departments who have experience in the fraud field to participate and assist in such training.

This Task Force believes that it is the State's responsibility to bring the standard of local law enforcement in the consumer fraud area to a satisfactory level of accomplishment. All citizens regardless of the county in which they live are entitled to the same level of protection against fraud as they are given against graft, prostitution, gambling and violent crimes. It is unlikely that the State would stand idly by and observe any of the latter four categories of crime go unchecked in any county, yet, that is exactly what is happening in the matter of consumer fraud in many counties of California.

## RECOMMENDATIONS

### DISTRICT ATTORNEYS

The Task Force recommends that:

1. Each district attorney assume the responsibility of raising the enforcement priority of consumer fraud in his own office. Proper weight must be given its importance and severity as a *crime*; and as a civil wrong against his constituents.
2. District attorneys and police establish liaison to combat consumer fraud, so that matters properly within the jurisdiction of each may be quickly and effectively referred, and information may pass freely.
3. District attorneys include on their staff at least one deputy trained to deal with consumer fraud, and add the needed number of investigators to properly aid the deputy in protecting consumers.
4. District attorneys assign a deputy informed on consumer fraud matters to counsel interested groups, local trade associations and police regarding protective and investigative efforts.

## POLICE

For most citizens police departments and sheriff's offices are the primary contact in defense against consumer fraud. Police departments and sheriff offices have the power, and the duty to investigate and arrest in cases of consumer fraud, and to aid in prosecution.

This power to act against fraud is potentially stronger than that of any other public agency. Unfortunately, however, many police departments and sheriff offices have not yet recognized consumer fraud as a police problem or a responsibility within their jurisdiction.

Where there has been police involvement in the detection and prevention of consumer fraud it has been through the "Bunco" units of large police departments or sheriff offices. In some large cities Bunco units were established to combat fraud long before the interests of consumers became a major social issue. Today, these units face new, more inventive fraudulent schemes. And, more complex detection and prosecution problems exist than did before.

Consumer fraud is one of the most serious and widespread crimes confronting California citizens, netting millions of dollars every year for those who operate outside the law. Still, most police departments assign manpower on the basis of priorities established long ago: efforts to curb vice, gambling and narcotics still come ahead of consumer fraud. In most cases, there is little or no manpower available to combat fraud. Once a high priority is assigned to consumer fraud and police agencies recognize the nature and scope of consumer-related crimes, improvement in manpower assignment and education of personnel will follow.

Although some police agencies have developed effective procedures for combating fraudulent schemes brought to their attention by consumer complaints, too often insufficient staffing — plus the great mobility and ingenuity of fraudulent operators — hampers the best police efforts. Involved in the apprehension of fraudulent operators is the concept of investigating suspected schemes *before* complaints are actually received. Sophisticated investigation methods are required, for often, by the time a complaint is received and investigated, the fraudulent operator has moved on to another locale.

Officers assigned to receive consumer complaints may be unable to discern whether the complaint relates to a violation of civil law or criminal law. Often, complaints are dismissed as "civil" when they actually relate to *criminal* fraud. The consumer may be told to see an attorney. Thus, the criminal fraud may go undetected and the consumer becomes disillusioned. This defect is the result of insufficient training of police personnel and the failure to assign consumer fraud a priority equal to that of other prevalent crimes.

Police departments and sheriff offices should establish good working relationships with the local district attorney in the matter of fraud investigation and protection. Liaison committees of the agencies should meet regularly to develop workable procedures, designating the responsibilities of each agency. Such meetings would serve to keep the police agencies up-to-date on the content of criminal laws designed to protect consumers and any problems relating to the laws.

Consumer fraud investigations present unique problems. First, the victim himself may not discover for a long time that he has been cheated, or he may not know enough about his complaint to describe it accurately. (For example, the victim of a phony carpet dealer may complain about slow delivery, not realizing the dealer never intended delivery.) Second, the police, on receiving a complaint, in many cases, cannot tell whether or not a crime has been committed, unless a pattern of similar incidents shows up. (Is the initial complaint the tip of the iceberg or the result of an honest mistake or inadvertency?) Records must be kept of complaints so that if a crime pattern is developed, proper steps can be taken. Third, many fraudulent schemes are designed to be undiscovered until months after the perpetrators have left the area. The old argument, "We've got enough crime to take care of without going out and looking for it," does not apply in fraud cases, just as it does not apply in narcotics cases. Fraud investigators must be alert to the latest schemes, and the *modus operandi* of the operators.

Some police departments have begun to train the personnel of the Bunco squad specifically for the work. This practice should be extended throughout the State. Another progressive step has been to change the name "Bunco" to "Consumer Division" or "Consumer Fraud Unit". The new names more accurately describe the unit's nature and serves to inform the public that the police are of service in the area of consumer fraud. (The Oakland Police Department has recently expanded its Fraud Department and has assigned some of its most experienced investigators to it, including a specialist in consumer fraud. The OPD anticipates assigning additional police and civilian personnel to the unit, as well.)

To curb consumer fraud, cooperation among all agencies must be developed, including private as well as public. To facilitate cooperation among local police agencies and to combat the mobility of fraudulent operators, a central records system should be established. This office would record all reported frauds, the *modus operandi* involved, and the parties involved. This system could operate in conformity with, or be incorporated into, the Criminal Investigation and Information Division of the Justice Department. This would enable any law enforcement agency to obtain current information on fraudulent schemes anywhere in the state. Police departments and district attorneys interviewed have verified the need for such a system, and believe it would increase cooperation and reduce duplication of effort by investigating agencies, while preventing fly-by-night operators from avoiding local detection or apprehension.

After realizing he has a problem the citizen should know that he can go to the police for assistance. This service needs to be widely publicized. Interviews with police in most cities have revealed that low-income citizens generally display a basic distrust of police and are reluctant to seek help, even though the incidence of fraud is probably greater at this economic level than any other. Pilot programs such as *Operacion Estafadores* (Operation Swindlers) in Los Angeles are the first significant steps by police to improve contacts with low-income citizens in relation to consumer problems. They appear to have potential for success. *Operacion Estafadores* has Spanish-speaking police officers on duty at all times. The objective is to understand and solve special problems of the community and to ease tensions between police and the citizens. Progressive programs such as this are needed throughout the State.

## RECOMMENDATIONS

## POLICE

The Task Force recommends that:

1. Police and sheriff agencies assign a higher priority to the investigation and apprehension of those who perpetrate consumer fraud.
2. Personnel, especially those who operate in the fraud/bunco area, be trained in the complexities of fraud investigative work, with an emphasis on differentiating between civil and criminal offenses. This should be a statewide policy.
3. Police and district attorneys establish thorough inter-office procedures for consumer fraud matters. Regular meetings between these agencies are needed to develop procedures for designating the responsibilities of each and the various bases for referrals from one to the other.
4. To facilitate cooperation among local police agencies and to combat the mobility of fraudulent operators, a statewide central records system be established. The system would record all reported frauds and *modus operandi* of the suspected parties involved. This pooling device could operate in conformity with, or be incorporated into, the Criminal Investigation and Information Division of the Justice Department.
5. Police take positive steps to inform all communities of their availability to assist with consumer fraud complaints.
6. Personal contact, through speaking and community meetings, is a slow, but nevertheless effective means to meet this need. Special emphasis must be placed on establishing contact with low-income and non-English-speaking communities.

If a consumer realizes he has been defrauded and is aware of the various Federal, State and local agencies organized to combat consumer fraud he may find his way immediately to the agency which can be most helpful to him, (i.e., false representations in connection with a sale of stock - the nearest local office of the state Corporation Commissioner; fraudulent contract for construction or repair of a home - the Contractors License Board; an interstate scheme violating a federal law - the Federal Trade Commission, etc.).

The majority of consumers, however, do not have a degree of awareness which will lead them to the agency which is best equipped to answer their questions and offer effective assistance. In such cases, the consumer must be directed to an agency with general jurisdiction and sufficient knowledge to advise him directly or direct him to the agency or bureau which will be most helpful. As we mentioned in a previous section, police departments and sheriffs offices have been the primary contact for citizens who have recognized that they have been defrauded.

With many consumers there may not be an early realization of that fact, and the matter may first develop as a simple concern or inquiry on the part of the consumer. The Task Force has considered a number of different approaches to this problem and recommends that the following three efforts receive continued support:

## (1) Greater accessibility of the Department of Consumer Affairs.

The Consumer Affairs Act of 1970 assigned to the director of that department the responsibility "to receive complaints from consumers..." (Business and Professions Code, Section 325) and to "transmit any valid complaint to the State or Federal agency whose authority provides the most effective means of securing such relief" (Business and Professions Code, Section 326(b).) To further these duties the Task Force recommends adoption by the Department of a regionalization program recommended in that section of our paper covering the Department. (see p. Department of Consumer Affairs)

## (2) Better utilization of telephone services: Statewide toll-free numbers.

The Bureau of Automotive Repair, (created during the 1971 legislative session, and officially in business since March 1, 1972) has based its efforts on a toll-free number set up to handle consumer complaints (800) 952-5210. The statewide toll-free number must be prominently displayed in each of the estimated 38,000 auto repair firms in the state. In the first five months of operation the five toll-free lines in Sacramento have produced more than 11,000 auto repair complaints. To alleviate delays and frustrations caused by busy lines the agency is adding additional telephone lines and will extend the service hours on the lines an additional hour per day (7: a.m. to 5:30 p.m.).

This experiment has proved that toll-free lines will be used when they are well publicized at the place where the consumer is affected. The Bureau of Automotive Repair is wrestling with the problem of effectively resolving complaints from remote Sacramento locations. The Bureau has been authorized to employ 90 persons and will be given direct access to the resources of the Department's Division

Investigation. Although the Bureau has commenced operations under several handicaps, nevertheless indications are that problems are being overcome and this experiment should be carefully monitored and evaluated for possible extension into other areas.

- (3) Coordinating existing city and county Consumer Affairs offices with local enforcement agencies and the Department; and creation of new city/county offices only after a genuine need is shown, (i.e., that the Department of Consumer Affairs can not do the job.).

A number of cities and counties in California have established consumer agencies with various funding arrangements and organizational structures. Some counties are experimenting by directing the Weights and Sealers officials to offer general consumer services:

The agencies interviewed provided the Task Force with impressive figures. The Los Angeles Bureau of Consumer Affairs reported 280 phone complaints and 34 in-person complaints on its first day of operation Monday, April 3, 1972 and Mrs. Fern Jellison, general manager, reported that during its first three months of operation the Bureau had received approximately 18,000 complaints and saved residents nearly \$200,000. The Los Angeles Bureau, financed in part by a federal grant for one year of \$148,206 from Federal Emergency Employment Act Funds, has 21 employees including 13 investigators. The Los Angeles Bureau is considering opening additional offices in the San Fernando Valley and in the Watts and East Los Angeles areas. The City of San Diego, as a part of a Model Cities Project, has a Consumer Affairs Project which is funded with \$229,000 from the Office of Economic Opportunity.

Orange County created a pilot County Office of Consumer Affairs which commenced operations on March 1, 1972. The program is funded with Public Employment Program funds and was initially structured with a Director, five investigator-consultants and two secretaries. In addition to responding to complaints the Director, Mr. Shimminoff, has promoted several innovative consumer education efforts in Orange County. Sacramento, Del Norte, Humboldt, San Bernardino, Santa Clara, Santa Cruz and Ventura counties are also experimenting with county consumer agencies.

This proliferation of governmental agencies results from the fact that existing agencies have not solved the problem of providing convenient and effective assistance for those consumers that have been unable to resolve complaints through their own efforts. Although the State and Federal governments are doing a better job consumers and their elected city and county representatives have felt it is not enough. With the availability of Federal funds to subsidize local efforts, these frustrations have resulted in the creation of new agencies.

Unfortunately, the creation of new agencies without adequate planning and based on temporary financing can produce more long term problems than may be justified by immediate numerical results. The Task Force is familiar with the recent creation of a Governor's Steering Committee for a Local Government Reform Project which will analyze the 5,758 local government units now existing in the state to determine what can

be done to avoid "over-governmentalization." This type of analysis is valuable and would be a mistake to encourage the indiscriminate creation of city and county consumer agencies unless such agencies fill a void and will perform their functions on a long basis in a responsible and efficient manner and with adequate funding.

On the other hand, it may be that the work of local government agencies can be coordinated with that of the Department of Consumer Affairs. It is our belief that the Director of the Department should cooperate with the existing groups and should participate in experimental programs to determine what system of government organizations will be least expensive and most responsive. A proposed consumer "Assistance Act" was introduced in the 1972 session of the California legislature for the purpose of promoting local agencies through State subsidy. The plan was not conceived and the proposal did not succeed. We believe that the uncoordinated creation of local agencies would be a mistake. However, we encourage the Director to prepare and submit legislation to the 1973-74 session which would provide modest and temporary State subsidy to these cities and counties which propose local programs to be coordinated with the existing State and Federal efforts. Criteria to be considered in selecting local agencies to receive temporary state financial assistance should include:

- (1) A program to insure efficient utilization of funds;
- (2) A program plan designed to reach all segments and income levels of the community to be served;
- (3) A plan of cooperation to eliminate confusion in the mind of the consumers regarding who to see with his unsatisfied complaint;
- (4) A system for evaluating the success of the subsidized pilot programs, this would be useful in designing and directing future efforts.

The Director of the State Department of Consumer Affairs is the chief government officer in California charged with protecting and promoting the interests of California consumers. We would not expect the Director to determine that adequate consumer protection can only be accomplished by shifting the responsibility to newly created agencies. It may be that the regionalization of the Department will effectively solve the problem of providing easily accessible consumer service centers without the need for additional governmental units. On the other hand, a three tier program involving community organizations together with the State and Federal programs might prove to be the most effective format. We encourage the Director to participate and innovate in these areas.

We have two covenants to offer:

- (a) Consumer complaint adjustment centers must be augmented by a strong enforcement agency. Complaint adjustment agencies are generally understaffed, underfinanced and overwhelmed. Consequently, while individual complaints may be adjusted and resolved, there is seldom action taken to stop unlawful practices. One danger in creating new complaint agencies without an effective liaison with an enforcement agency is that communications between the two may be impeded so that unlawful practices are adjusted but never aggressively attacked and thwarted.

) Legislative efforts to protect California consumers should be concentrated in the State Legislature. Indications are that California, generally, has adequate statutes and regulations to prevent known methods of consumer fraud if enforcement is aggressively pursued. Nevertheless, as new schemes are invented and new techniques of deception and misrepresentation develop, legislation to counter these efforts should be uniform and statewide. Except in cases of unique or special local conditions, cities and counties should not enact standards, controls, regulations, or restrictions on consumer transactions but should document the need for legislation and carry the proposal to Sacramento for comprehensive consideration and statewide action. The dilemma of local housing and building codes and the costs and problems such overlapping regulation has caused is a good example of the disastrous consequences of too-many-cooks-stirring-the-legislative-broth.

## RECOMMENDATIONS

### LOCAL CONSUMER AGENCIES

The Task Force recommends that:

1. The Department of Consumer Affairs seek to open regional offices throughout California.
2. The Department of Consumer Affairs seek better and fuller utilization of statewide toll-free telephone service.
3. Existing local consumer protection offices coordinate their efforts with local enforcement offices and the State Department of Consumer Affairs.
4. If the State Department of Consumer Affairs adopts a regionalization program soon, the establishment of *new* local consumer offices proceed only after a genuine need is shown.
5. The Director of the Department of Consumer Affairs cooperate with the existing local offices and groups in determining what system of governmental organizations will be least expensive and most responsive.
6. The Director submit legislation to the current session of the Legislature providing a modest and temporary State subsidy to local consumer protection programs to be coordinated with State and Federal efforts.
7. Legislative efforts to protect California consumers be concentrated in the State Legislature.

## VII. CONSUMER EDUCATION

Even with the optimum amount of coordination, government and private agencies cannot fully protect consumers. Authorities simply can't walk through all marketplaces with all consumers. To improve consumer protection and to reduce fraud, the consumer must be able to protect himself.

One of the main obstacles to more vigorous prosecution of consumer fraud is the failure of consumers to complain at all. One reason for this failing is the inability of a consumer to recognize that he has been defrauded. Another is his lack of knowledge of where he should go to register a complaint. To remedy this situation a major effort is needed to establish a consumer education program to reach all Californians.

Consumer education does not mean only studies in school. That is a major goal for those who believe that consumer education is our main long-range weapon against consumer fraud. In addition to educating our young, however, we must find ways of reaching into the communities - especially low-income areas - to fully inform every adult of his rights; the channels of redress available to him; and of what practices to beware.

Our concept of consumer education covers full use of media, personal contact with government and non-government personnel, as well as establishment of consumer education as part of the curriculum of our school system.

*"The purposes of consumer education are to help each student evolve his own value system; develop a sound decision-making procedure based upon his values; evaluate alternatives in the marketplace and get the best buys for his money; understand rights and responsibilities as a consumer in our society; and fulfill his role in a free enterprise system"*<sup>1</sup>

Federal, State and local departments of education have been charged with responsibility for the development, supervision and evaluation of curriculum, teaching education and certification and educational programming. Only recently has the issue been raised considering consumer education as an added responsibility. Early in 1970 a conference co-sponsored by the Department of Education and the Department of Consumer Affairs was well attended by educators and consumer-activists from throughout California. The purpose of the conference was to raise the consciousness of educational institutions throughout the state regarding the concept and purpose of consumer education. Virginia Khauer, Special Assistant to President Nixon for Consumer Affairs, stressed the importance of such programming. Some suggested guidelines were:

1. The curriculum must be multi-disciplinary.
2. Programming must begin at the elementary level and be constantly evaluated to insure comprehensive coverage of as many key areas as possible.

<sup>1</sup>*Suggested Guidelines for Consumer Education* for the President's Committee On Consumer Interests, November, 1970, p. 2.

Since that conference the efforts made toward consumer education have been attempted on a voluntary basis by institutions primarily independent of either the Department of Education or the Department of Consumer Affairs.

Even within the schools, according to Dr. Kenneth Washington, the center for such programming is probably the home economics classes.<sup>2</sup> The traditional approach limits the courses to teaching wise buying habits, home budgeting and finance. "Consumer Education is not merely a rhetorical exercise in buymanship. It is a continuing, lifetime learning experience. For that reason, we must realize its great potential, as an integral segment of our total educational system, supplemented by the informal influences of the home and community and supported by consumer organizations, government, and business."<sup>3</sup>

It is our recommendation that the Department of Education (pursuant to Education Code Sections 153, 181, 886, 8002, 8055, 8571 and 8573) introduce and implement programs in consumer education and coordinate efforts being made by consumer organizations, other governmental agencies, the media and business. We recognize that such an undertaking will require much study, additional money and trained personnel, and allowances can be made for that. In the meantime, however, pilot programs should be launched to satisfy critical areas of need. For example, we agree with the Governor's Advisory Council on Consumer Affairs that pilot projects should begin immediately to educate high school age students about contracts for auto purchases. Driver training courses should be expanded to include discussions on auto construction, auto financing, auto insurance and warranties. Here the schools could call upon business to participate in presenting the subject matter (e.g., financial institutions, automobile dealers and insurance agents). The educational material developed by business and industry could be utilized, as well as materials which have been produced in Braille, audio tapes, films and bilingual training aids. The State Legislature should be requested to enact legislation requiring such courses in our schools.

Consumer education also extends to informing the public about consumer protection programs available through government agencies. This requires coordination by the Department of Consumer Affairs with full cooperation from the Department of Education.<sup>4</sup>

#### *News Media*

News media can play a significant role in educating the public to various consumer fraud practices and where to go for help. For example, the public is dramatically alerted to beware when a radio or television broadcast or newspaper story exposes a fraudulent scheme. More can be done:

1. The Department of Consumer Affairs should consider developing multi-lingual radio and television programs which deal with common problems and which answer typical

<sup>2</sup>Wendelin, Carol, *Consumer Fraud Task Force Survey of the California State Department of Education*, December, 1971, p. 2.

<sup>3</sup>*Suggested Guidelines for Consumer Education*, supra, p. III.

<sup>4</sup>See also Erwin Piper, *Report From City Administrative Office*.

questions of consumers. Offered to stations as a public service, these programs could reach hundreds of thousands of Californians regularly.

Some stations do offer such programs on their own. Some have consumer reporters who concentrate on investigating consumer fraud and telling the consumer how to avoid them. These reporters also explain the workings of consumer protection agencies. This is a valuable service. Other stations would be encouraged to provide it if they knew that the Department of Consumer Affairs would provide reliable, regular source material broadcasts.

2. The Department should seek the cooperation of telephone companies to include a page of consumer protection and enforcement agency listings in the front section of each telephone book.
3. Revocations and suspensions of licenses by State agencies should be more widely publicized. At present, most publicity of these matters is confined within the industry or to State agency mailing lists. We recommend that all agencies circularize notices of revocations and suspensions regularly to all newspapers, radio and television stations, taking care to check or underline items of local interest in each report. The Department could simplify the procedure by gathering such notices from all agencies and compiling them into a single monthly bulletin.
4. Media would be more willing to use material from consumer protection agencies if their releases were in more usable form.

Today, many newspapers offer "action line" columns to which consumers can send their complaints. The newspaper tells the consumer how to solve the problem or solve it for him. This type of service is also offered by some radio and television stations.

One station, KABC Radio, Los Angeles, has done this on a large scale. It has a staff that take complaints; then solves the problem to the best of its ability.

Broadcast of consumer reports by all stations would act as a deterrent to crime. The Federal Communications Commission could, through its regulatory power, require broadcasting stations to devote a certain amount of time to consumer information and law enforcement actions regarding consumer protection.

If a company knows that to be found guilty of defrauding a consumer will mean that the entire public will learn about it, it will be more careful to avoid such practices in the first place.

KHJ-TV, Los Angeles, proved this recently. Its consumer report on the nightly news has been publicizing names and addresses of companies found guilty of short weight. This information is supplied by the Los Angeles County Department of Weights and Measures. Only those firms found guilty and fined in court are publicized. The fines are usually small, but the publicity is not. KHJ-TV received complaints from one store as a result of such a broadcast that the store's business had dropped off by two-thirds.

#### *Social Workers and Probation Officers*

Contacts should be expanded between consumer protection agencies and social workers and probation officers. Both can aid their clients in understanding which business practices to avoid and how to get help.



Representatives from the Department of Consumer Affairs, police, district attorneys and the Attorney General's offices should seek speaking engagements wherever and whenever possible, with emphasis on addressing ethnic minority, non-English speaking and senior citizen groups. Speakers should outline common and current fraudulent schemes, and where and how to take complaints for action.

Speakers from consumer protection and law enforcement agencies should also be made available to schools and colleges as part of the proposed expansion of consumer education throughout the California school system.

## RECOMMENDATIONS

### CONSUMER EDUCATION

The Task Force recommends that:

1. The State Department of Education commence at once to devise a curriculum of consumer education in kindergarten through grade 12.
2. The State Department of Consumer Affairs coordinate all programs of public information concerning consumer protection programs available through various governmental agencies.
3. The Department also devise a multi-lingual newspaper column dealing with consumer problems, questions and information for dissemination throughout the state.
4. The police, district attorneys, and Department of Consumer Affairs attempt to set up meetings and workshops with social workers and neighborhood groups to inform consumers of the basic elements of protection from consumer fraud.
5. The Department seek the cooperation of telephone companies to include a page of consumer protection and enforcement agency listings in the front section of the telephone book.
6. Revocations and suspensions of licenses by state agencies be more widely publicized.

## VIII. VOLUNTARY INDUSTRY EFFORTS

### VOLUNTARY INDUSTRY EFFORTS

Business and industry are aware of the wave of "consumerism" and this awareness has led to increased business initiative. As the general level of business response expands to alleviate real problems and to satisfy the escalating expectations of consumers, it will be more difficult for the fraudulent operator to exist. Business is solving legitimate problems by the establishment of quality control programs, simplified complaint procedures, readable warranties, buying guides and product care guides, the creation of standards and codes, and support for educational programs. In the face of these voluntary efforts fraudulent operators will find that their schemes will be more readily apparent to the consumer and hence less likely to succeed.

It would be impossible to compile here all the anti-fraud business programs, but some of the efforts have been reviewed by the Task Force and are described below:

#### *Simplified Complaint Procedures*

A number of businesses have adopted programs to improve the "complaint" communications from consumers. Whirlpool, a leading household appliance manufacturer, was one of the first to streamline its system with a "cool-line", a nationwide, toll-free telephone service to its main offices to provide information or help in the event of a local breakdown of service. Whirlpool averages 300 Cool-line calls daily, of which 25% are of the complaint category which are handled by the company's nationwide network of 130 service managers. All customer complaint letters to the Whirlpool main office are acknowledged within two days of arrival. The Whirlpool effort has been a pattern for many other businesses.

Numerous other complaint programs to facilitate communication and ease the frustrations of the consumer have recently been set up including a Mobile Home Consumer Affairs Council; Better Business Bureau's "Hot Line" designed to resolve service problems; the Major Appliance Consumer Action Panel (MACAP), an independent panel of consumer-oriented experts who serve as ombudsmen, voicing consumer problems to appliance industry management. MACAP is a creation of the Gas Appliance Manufacturers Association and the American Retail Association and, among other responsibilities, it receives comments and complaints from appliance owners, studies industry practices, and advises manufacturers and retailers of ways to improve consumer service. The Electrical Industries Association of Southern California is preparing a booklet for consumers on how to avoid service calls, and where and how to place a complaint effectively. A number of associations are considering participation in the Better Business Bureau's current experiment of arranging voluntary arbitration of those consumer complaints which cannot be resolved informally. More will be said about this type of effort later.

#### *Understandable Warranties*

A number of companies simplified their guarantees prior to recent federal and state legislation, and in many cases companies have gone beyond the requirements of law in

information specialists who answer more than 100,000 customer inquiries annually. Over 90% of the letters received are simple requests for help in doing things with photographic equipment the customer does not know how to do.

More and more, it appears that business organizations are designing instruction booklets on a "team approach", using engineers, professional buyers, home economists, copywriters, consumer panels and graphic artists to convey an accurate, understandable story to the customer. The inclusion in a single manual of all relevant information including internal unpacking instructions, parts list information, product guarantee provisions and service information is a noticeable trend and should reduce many of the frustrations consumers experience with technologically advanced products.

#### *Consumer Literature and Educational Efforts*

Many companies have prepared "Buy Studies" similar to but less elaborate than the Ford book mentioned above. General Mills, Inc., Whirlpool Corporation, Sears, Wards, and Penneys have typical programs. Sears had 230 titles of consumer literature in June, 1972 available at no cost to the consumer. Many of these are noncommercial how-to-buy, how-to-use publications. Others are promotional in part, such as the 22-page booklet describing the "Sears Tire Proof-of-Performance" program which contains a special section on "How to Get the Most From Your Tires."

A number of trade associations also have been active. The Direct Selling Association, in an effort to counterattack the unscrupulous segment of the door-to-door sales industry began a widespread communications effort last year with a consumer education piece entitled "Buying At Home . . . Wisely! A Quick Look at How To Do It." The pamphlet offers nine hints to help consumers recognize honest door-to-door sales representatives. The Pharmaceutical Manufacturers Association has prepared a number of pamphlets discussing the proper use of medicines and the relationships between the consumer, the physician and the pharmacist.

A substantial amount of formal classroom material has been produced and made available by business to educators and school systems, without charge. The West Virginia Retailers Association, with the help of a grant from a retail chain, prepared a loose-leaf publication entitled "Consumer Education, A Course of Study" and provided enough copies for distribution to all public schools in West Virginia. The 240-page guide is designed to fit any teaching situation in the field of consumer education, centered around students' interests and utilizing all resources of the community including interviews, lectures, tours and direct student involvement. Topics covered in the course of study include purchasing food, furniture and appliances, clothes, buying and maintaining an automobile, housing, renting or buying a home, credit, money management, consumer law, fraud and deception, and banking and saving.

The Pharmaceutical Manufacturers Association has spent \$25,000 in developing cooperatively with the American School Health Association a curriculum guide entitled *Teaching About Drugs* for use in all primary and secondary grade levels. The J.C. Penney magazine, FORUM, published semiannually explains topics of consumer concern for the use of professional educators and is typical of the efforts retailers have made in this

direction. A number of different programs and teaching aids are available through national retail corporations for the use of home economics instructors and other educators who deal with consumer topics.

Kraft Foods has an interesting instructional program available to social studies teachers. It encourages students to gather as much information about a product as possible, either from independent evaluation, libraries, advertisements, or from contact directly with the manufacturer. Kraft publishes a pamphlet entitled "The ABC's of American Industry" and distributes over two-and-a-half million copies to students through social studies classes. Students compete for prizes by developing related projects and writing essays based on information obtained regarding the American products listed in the pamphlet.

Educational materials developed by American business range from formalized curricula to individual pamphlets available on request. Materials have been produced in Braille; audio tapes; Spanish language; for ethnic minorities; films of all types; and all varieties of training aids.

#### *Advertising*

The Federal Trade Commission, among other governmental agencies, has been active recently in the field of advertising. The FTC has been particularly concerned with national television advertising, but (along with other State and Federal bureaus and agencies) has also been concerned with product performance claims in all media. While these governmental efforts and the concepts of corrective advertising substantiation and affirmative disclosure have drawn most of the attention in recent months, historical industry efforts and current programs of self-regulation should not be overlooked.

In this connection, the FTC executive director commented in 1971: "If businessmen believe the Commission and other government agencies are becoming more enforcement oriented, then we begin to hear the suggestion that self-regulation is a reasonable alternative to the time-consuming lawsuit . . . Actually, I welcome these responses from industry because it means that the Commission's responsibilities are being taken seriously . . . I welcome them too because I am acutely aware of the Commission's budgetary and personnel limitations. An enlightened system of self-regulation may support the Commission's enforcement activities and multiply the beneficial effect of a single action many times . . ."

Clearly, some of the recent efforts at industry advertising self-regulation have resulted from increased emphasis by governmental agencies and consumer groups; however, we recognize that industry for years has voluntarily worked at setting lines of demarcation between "proper" and "improper" advertising.

Leading retail organizations have had advertising policies and self-imposed requirements for truthful advertising for over 50 years. Although adherence to the standards may have varied throughout the country and from time-to-time, nevertheless, efforts at voluntary regulation have been made. Responsible business efforts have often been ignored by fraudulent operators and those unethical businessmen who recognized that they could do so with impunity.

guarantees. He will, however, only perform if forced to do so, often only upon the threat of government intervention or litigation. The Task Force considers that any promise made when the promisor intends to delay the performance of the promise by every means imaginable is as fraudulent and frustrating to the consumer as an intention by the promisor never to perform at all. In fact, in our opinion, the difference between the two is insignificant. Consequently, we recommend that anything that can be done to accelerate the voluntary processing of a consumer's complaint by the business or industry involved should be promoted and fostered in every way possible.

It is in this connection that we make certain suggestions regarding Small Claims Court proceedings. We also propose that the Department of Consumer Affairs promote and support the adoption by business, industries and associations of the voluntary arbitration of consumer disputes.

#### *Arbitration of Consumer Disputes*

For many years, the Cleaning and Dryers Institute in New York City has required that its members incorporate a standard arbitration clause into the language of the claim checks given to customers. When a customer is dissatisfied with the work, and he and the cleaner are unable to resolve the dispute, either party can submit the claim to final and binding arbitration before an arbitrator appointed by the American Arbitration Association. The Los Angeles Better Business Bureau has set up a similar system for dry cleaning and laundry establishments. During its first year, it handled 372 cases.

This year the Better Business Bureau has embarked on an ambitious national program of consumer arbitration by undertaking a number of pilot projects throughout the country. Oakland, Bakersfield and Long Beach are California cities in which the pilot program will be promoted by the BBB. The Task Force lauds these efforts and encourages the Department of Consumer Affairs to assist and lend financial support for these type programs in the State of California.

In this regard the recent study completed by the California Judicial Council utilizing \$75,000 from the California Senate Contingency Fund regarding the advantages of arbitration over litigation in resolving smaller personal injury disputes is interesting. Most of the attorneys who responded to questionnaires concerning the arbitration proposal cited savings in time and expense as their reasons for favoring arbitration. The report concluded that "a successful arbitration program hinges upon the careful selection of qualified, knowledgeable and fair arbitrators."

Mary Gardiner Jones, FTC Commissioner, commenting on the desirability of impartial arbitration of unresolved consumer complaints has indicated that such a program to be successful must not be financed solely upon contributions or fees from parties to a dispute; this would be unfair to the individual consumer and full funding by the business community could adversely reflect on the need for an impartial appearance. She suggests that funding could be accomplished by several acceptable methods including governmental assistance. She also maintains that the availability of this machinery must be fully and continuously publicized.

The Task Force notes that the American Arbitration Association has been active for many years in making the tools of arbitration available for labor-management relations, commercial disputes, and insurance coverage questions. In recent years the AAA, through its National Center for Dispute Settlement, has offered its services in the development and adoption of the techniques of arbitration, mediation, and fact finding to resolve community problems. We believe the state should actively participate in promoting cooperation among business, consumers, government and the National Center for Dispute Settlement in making arbitration available for the fair resolution of disputes between fair dealing businessmen and concerned consumers.

The Department of Consumer Affairs should take the lead in this effort by:

- (1) Encouraging business and associations voluntarily to adopt consumer grievance programs offering binding arbitration as a final step;
  - (2) Approval of the BBB California pilot project;
  - (3) Publicizing the benefits of arbitration to the consumer and the good faith and good will demonstrated by merchants and businessmen willing to participate in such programs;
  - (4) And perhaps most importantly, participating with the National Center for Dispute Settlement of the AAA in covering the administrative expenses involved in making arbitrators and forum facilities available without cost to the participants. In this connection it should be noted that the AAA is a nonprofit operation which has succeeded in keeping the costs of arbitration to a minimum through the utilization of volunteers. Many qualified citizens with appropriate expertise have agreed with the AAA to serve as arbitrators in resolving controversies between parties;
- A \$10,000 commitment by the Department to assist in covering the administrative expenses incurred by the NCDS in making available its facilities to consumers and businesses willing to test an arbitration program would be a valuable experiment;
- (5) Consideration should be given to encouraging arbitration through statutes proposed and supported by the Department of Consumer Affairs; and
  - (6) Governmental agencies should utilize arbitration procedures to obtain restitution for wronged customers.

Our proposal number 6 is exemplified by the judgment rendered by Judge J. Kelly Steele based upon an agreed case between *The People of the State of California, by and through Evelle J. Younger, Attorney General of the State of California and Koscot Interplanetary, Inc., a Florida corporation; Glenn W. Turner Enterprises, Inc., et al.* (No. 112912 Kern County Superior Court, 1971.) In that case, a company was charged with operating a marketing program in violation of California Penal Code Section 327, in that such program constituted an "endless chain scheme" as defined therein. Furthermore, it was alleged that fraudulent representations had been made by the defendants in violation of Business and Professions Code Section 17500 and Civil Code Section 3369(3).

The judgment in that case provided that any participants in the Koscot Marketing Program could demand an immediate refund of his investment in Koscot and cancel his

contract if any part of the Marketing Program had been misrepresented to him. At page 15-16 the order further provided:

*"14. In the event that any controversy or claim arising out of a request for refund by a Participant pursuant to paragraph thirteen (13) of this judgment cannot be settled by the parties or their representatives, such controversy or claim may, at the option of the Participant, be settled by arbitration in accordance with the then current rules of the American Arbitration Association, and the decision of such arbitrator shall be binding on both parties."*

Jurisdiction of the matter was retained by the court to guarantee the enforcement of compliance with the terms of the judgment. Based on the order, 36 cases were filed for arbitration with the AAA in Los Angeles and 40 cases with the San Francisco AAA office. Approximately \$200,000 was refunded to participants based on the arbitration proceedings.

Similar success with arbitration proceedings has been achieved in Washington state where approximately 78 cases were filed under a "Dare to be Great" Glenn W. Turner promotion and in the *State vs. Norman J. Cohen, et al.* (No. 713326 Superior Court, King County, Washington, 1970) cases wherein over 30 arbitration hearings were held within a three-day period and the liabilities of the fraudulent rug sellers were determined.

The willingness of responsible businesses and associations in California to voluntarily undertake innovative programs leads us to the belief that vigorous promotion of a consumer arbitration procedure by the Department of Consumer Affairs would be productive and beneficial for the consumers of the state and helpful in efforts to eliminate consumer fraud.

## RECOMMENDATIONS

### VOLUNTARY INDUSTRY EFFORTS

The Task Force recommends that:

1. To improve "complaint" communications with consumers, businesses continue to develop free information channels so complaints from consumers can be received promptly and directly.
2. "Legalese" be abandoned in warranties, and a clear statement of what is and is not covered, the length of coverage and the obligations of manufacturer and owner — be included. For warranties to be effective, they must be understood by the consumer.
3. Business and industry publish literature outlining the scope of use and efficiency of products. This will aid the consumer in making more effective purchases, thus, increasing satisfactory results for all parties involved.
4. There be regular distribution of consumer literature compiled by businesses for schools. This insures that such information reaches a large number of consumers and potential consumers.
5. Industry cooperate with government to curb deceptive advertising practices.
6. Voluntary handling of consumer complaints by businesses be accelerated.
7. The Department of Consumer Affairs assist and lend financial support to voluntary business arbitration programs.

## SMALL CLAIMS COURT

The Small Claims court system in California provides consumers with direct redress of their grievances and individual complaints.

Small Claims cases are often as important to those involved as cases heard in the highest courts. In Small Claims court, claims of up to \$500 may be prosecuted informally and without the cost, delay, or procedural complexities involved in normal litigation. Consequently, the Small Claims court should function informally and expeditiously. The chief characteristics of its proceedings are that there are no attorneys, no punitive damages awarded, no formal pleadings, no juries; and no formal findings of fact. At the hearings, the presentation of evidence may be sharply curtailed and the proceedings are usually completed quickly. Conciliation and compromise are often encouraged to bring the parties to an agreement.

Presently, any claim under \$500 falls within the jurisdiction of a Small Claims court. In recent years, these courts have reported a sharp increase in the number of cases being heard. Increasingly government agencies and private consumer organizations are referring consumer complaints they receive to Small Claims courts for resolution. It is important, therefore, that the Small Claims court system quickly and fairly dispense justice to those who make use of it. Small Claims cases are unique in that the judge is permitted to make informal investigations on his own.

Several criticisms have been made of existing Small Claims procedures. First, it is claimed that those people making use of these courts are often rushed through the court in a curt or cursory manner by court personnel or the judge. There is a perennial conflict between the needs of the courts, pressured by heavy calendars, to hear these cases expeditiously and the right of the litigant to have his "day in court" which he may erroneously interpret as "all day in court". The problem is partially caused by the layman's inexperience in presenting an argument before a court of law. The Small Claims court judge, in determining the relevant facts, must be able to assist both parties in presenting their cases. The judge has the responsibility of permitting both parties to air their grievances, but at the same time avoiding time-consuming irrelevances.

Second, Legal Aid and consumer group representatives have reported that certain Small Claims court judges simply are unaware of recent consumer legislation. While this recurring complaint is difficult to evaluate, it is clear that a need exists for up-to-date information on current consumer problems and recently passed consumer laws. Judges have expressed interest in a compilation which could be supplemented regularly. Such an undertaking could best be accomplished under the joint sponsorship of the Department of Consumer Affairs and the California Conference of Judges.

The Small Claims courts have been criticized for permitting certain businesses, government agencies, public utilities, etc., to use the courts as a collection agency. One response to this complaint has been the suggestion that certain larger businesses not be allowed in Small Claims court, or at best be limited to a certain number of actions per year. However, barring these business creditors from suing in Small Claims would probably result in forcing such cases to regular Municipal Court proceedings which are

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# SMALL CLAIMS COURT

more onerous to the debtors. There, a formal answer drafted by an attorney is necessary, and the losing party may have to pay higher court costs and attorneys fees. If no formal answer is filed in a Municipal Court proceeding, a default can be automatically entered by the clerk.

In contrast to this is the Small Claims procedure where the creditor must produce business records and prove a *prima facie* case before he can win by default. Here the defendant need not hire a lawyer and is liable for only a few dollars in court costs. If he loses, the defendant may obtain an installment judgment or a stay of execution. It should be noted that no *assignee* of a claim assigned for the purpose of collection may use the small claims courts.<sup>1</sup>

In those controversies involving credit elements we recommend the plaintiff show to the court all pertinent details of the transaction including any refinancing charges, late charges, extensions and extension charges, adjustments for unearned finance charges, etc. The plaintiff should be responsible for showing to the court that he has met all applicable state and federal laws and regulations (Truth-in-lending, Rees-Levering, Unruh, FTC regulations, etc.) as they relate to each credit transaction.

The Attorney General's office should prepare a regular bulletin or newsletter which could keep all Municipal and Justice court judges advised of the latest schemes under investigation by law enforcement agencies. The shady or crooked operator who preys on the consumer often does so under the guise of a legitimate businessman, and the fraudulent aspects may not be readily apparent to either the consumer or the judge. Information on current schemes may alert the judge to probe when such a case appears in court.

Furthermore, we recommend the use of law students in clinical training programs at the various local law schools to serve as law clerks to assist the judges in Small Claims courts. They could be used, for example, to assist the judges in research, or in keeping current on recent developments in the area of consumer fraud.

There is a need for greater public awareness of what Small Claims courts can and cannot do. A recent Department of Consumer Affairs publication, "The Consumer and the Small Claims Court", should be available to *all* potential Small Claims court litigants. The publication should be printed in foreign languages, (e.g., Spanish and Chinese) so that a person is not deprived of the workings of the court system because of a language barrier. Steps should be taken to assure that interpreters are also available at the court proceedings.

We are aware of at least one corporate plaintiff which delivers to defendants sued by it a copy of the publication, directing attention to the portion of the booklet advising how to defend small claims actions. Such efforts by business must be encouraged and supported by all court personnel.

We recommend that a provision similar to Labor Code Section 98.5 be enacted permitting introduction in Small Claims Court of fair decisions rendered, and facts found, in fair hearing proceedings in license revocation or suspension hearings conducted by

<sup>1</sup>California Code of Civil Procedure § 117(g)

agencies of the Department of Consumer Affairs.<sup>2</sup> Permitting the certification of decisions from fair hearings involving consumer boards and agencies would be useful evidence in small claims proceedings to enforce any restitution the hearing officer finds due the consumer wronged by the licensee.

The Small Claims court should be more accessible to the public. These courts are normally open Monday through Friday from 9:00 - 5:00. Some persons simply cannot afford to attend small claims cases during these hours because of job and family obligations which make it impossible to take time off. We recommend Small Claims Courts remain open on certain evenings and Saturday mornings to make the system more available to all. Already there are traffic courts being held in the evenings and on Saturdays in various counties in California.

The Task Force recognizes that personnel and financial deficiencies might present a problem to the immediate enacting of the night court or Saturday policy. In the interim the Task Force recommends that Small Claims clerks' offices remain open until 7:30 - 8:00 p.m. one or two nights a week so that the mere filing of an action will not penalize potential plaintiffs by making them miss work.

In order to make Small Claims court accessible to more consumers the Task Force recommends that the \$500 limit be raised to \$1000. The present \$500 amount does not adequately cover many consumer fraud areas. Moreover the consumer with a grievance in the range of between \$501-\$1000 may have difficulty finding an attorney who will take his case, or find that a reasonable attorney's fee will reduce a prospective judgment to a point that discourages a consumer with a claim of this size from going to court to seek justice. As the Small Claims Court, is becoming one of the primary forums of redress known to and used by the poor and uneducated, the raise in the limit will further open this channel to them.

<sup>2</sup>Labor Code Section 98.5 permits the Small Claims court to receive as evidence from the Labor Commissioner a written certificate that verifies the amount requested in a Small Claims case is the amount found due and payable in a prior Labor Commissioner hearing.

## RECOMMENDATIONS

### SMALL CLAIMS

The Task Force recommends that:

1. The Department of Consumer Affairs or Attorney General and California Conference of Judges undertake a compilation of up-to-date information on current consumer fraud schemes and recent consumer legislation for distribution to all Small Claims judges.
2. In all controversies involving consumer credit the plaintiff be required to show the court all pertinent details of the transaction including any refinancing charges, late charges, extensions and extension charges, adjustments for unearned finance charges, etc. The plaintiff should be required (contested or not), to show the court that he has met all applicable State and Federal credit laws and regulations.
3. Law students be used in clinical training programs of local law schools as law clerks to assist the judges in Small Claims Courts.
4. A recent Department of Consumer Affairs publication, "The Consumer and the Small Claims Court", be made available to *all* potential small claims court litigants. The publication should be printed in foreign languages, (e.g., Spanish and Chinese) so that a person is not deprived of the workings of the court system.
5. In jurisdictions with large non-English-speaking populations steps be taken to assure that interpreters are available to the court. If possible information desks should be staffed by bi-lingual personnel.
6. A provision similar to Labor Code Section 98.5 be enacted for decisions regarding fair hearing proceedings rendered as a result of license revocation or suspension within the Department of Consumer Affairs. The certification of decisions from fair hearings involving consumer boards and agencies should be permitted as evidence in small claims proceedings to enforce any restitution the hearing officer finds due the consumer wronged by the licensee.
7. The Small Claims court system be more accessible to the public, by remaining open on certain evenings and Saturday mornings to make the system more available to all.
8. The Small Claims clerks' offices remain open until 7:30 or 8:00 p.m. one or two nights a week to increase accessibility to working consumers.
9. Small Claims jurisdiction be raised to \$1,000.



SPECIAL PROBLEMS OF THE POOR, THE AGED  
AND THE NON-ENGLISH-SPEAKING CONSUMER

X.  
SPECIAL PROBLEMS  
OF THE POOR,  
THE AGED  
AND THE  
NON-ENGLISH-SPEAKING  
CONSUMER

While fraudulent and deceptive practices cut through the entire community, regardless of the income level, age or education of the consumer, the impact of fraud is particularly severe upon those of low income, the aged and the non-English-speaking.

Special problems are associated with these groups of consumers. For example, inability to pay for legal services; ignorance of laws and regulations governing transactions; a language barrier; hesitancy to seek redress against fraudulent and deceptive practices; pride; disability; and limited transportation, which prevents comparative shopping for lower prices outside the home neighborhood.

The poor and aged are often charged more, they also suffer penalties for non-payment which may be caused by illness or the loss of a job.

Senior citizens account for 20% of the nation's poor.<sup>1</sup> Their possible infirmity and ignorance of the law, combined with lack of mobility makes them vulnerable to deceptive practices. Approximately three-fourths of all frauds reported in one study involved consumers over 65 years of age. It is also notable that most instances of fraud were not reported at all to authorities because of a belief that redress was not available.<sup>2</sup>

Here is a typical problem of low-income consumers frequently cited by legal advocates: a dishonest used car salesman gives his "pitch" to a consumer, deceptively representing the car to be of good quality. He convinces the buyer he can "afford" the car because of "easy credit". After a short time, the car malfunctions and the consumer refuses to pay, and/or he has fallen behind in his payments because, in fact, he could not afford the car (or has been confronted with a large "balloon" payment). At this point the car dealer (or finance company if the contract has been assigned) seeks redress against the defaulting consumer either by repossessing the car, or employing a collection agency to collect the balance due on the contract.

If repossession occurs, the car is auctioned and the amount from the sale is credited against the contract balance. If, however, there is still an amount due on the contract, deficiency judgment is often sought. Attachment of wages to satisfy the resulting judgment may result in the consumer losing his job. If collection efforts are made, the consumer and/or his employer may be subjected to repeated harassment, as well as unlawful practices bordering on extortion. Despite statutory prohibitions, these practices still exist. Few people realize that if they are harassed repeatedly, the telephone company can remove the phone of those doing the harassing, or that criminal prosecution is possible.

The aged consumer is often confronted with deceptive and fraudulent schemes involving the sale of hearing aids, retirement plans, supplemental medical insurance, funeral plans and cemetery plots, to mention a few. These schemes appear most often door-to-door and direct mail transactions.

<sup>1</sup>Clearing House Review, National Clearinghouse for Legal Services, Vol. VI, Numbers 4 & August-September, 1972, p. 189.

<sup>2</sup>White House Conference on Aging, 1971.

Steps must be taken to alleviate the special problems facing the low-income, non-English-speaking and aged consumer. Advocacy on behalf of these consumers can provide remedies as well as educate them to avoid future problems.

The Sacramento *Consilio*, for example, offers an advocacy-type program aimed at helping resolve problems of low-income consumers, especially those who do not speak English. Under this program, the consumer files his complaint and the *Consilio*, through one of its agents, "stands in the shoes" of the consumer to attempt to obtain redress.

In addition, the *Consilio* distributes informational pamphlets in Spanish to Spanish-speaking consumers, informing them of new consumer laws and protective services available.

The legal aid organizations, although available to the poor, have a very heavy workload.<sup>3</sup> Staff is often insufficient and facilities inadequate. These factors hinder efforts to be effective in low-income communities, so the para-legal advocacy efforts of a program such as the *Consilio* becomes all the more important.

Just the same, California Rural Legal Assistance, Neighborhood Legal Services and the Legal Aid Society, as well as various programs run by bar associations, are still key factors in protecting the poor and aged from consumer fraud. The legal services groups, however, suffer from the same conflict of priorities, lack of manpower, lack of communication and coordination as do government agencies. Within a large legal services group, it is possible that the same fraudulent operator may be the subject of cases handled by two or three attorneys, each in ignorance of the other's suit. In many of the larger legal services groups, specific consumer protection programs are being developed. An index of defendants should be maintained so that if a pattern of abuse or deception occurs, it could be spotted within the legal services agency. We have elsewhere discussed the need for the State agencies to take the initiative in coordinating with local agencies. We urge that the legal services groups actively seek liaison with appropriate licensing or regulatory agencies when an abuse comes to their attention. In addition, there should be active liaison with local police departments and prosecutors. The legal services groups can help their clientele by action on the individual case and class actions (where appropriate) against fraudulent operators, and by insisting that government agencies empowered to act do act.

Legal services offices report that only 6% of their clients are elderly. In response to the problems of low-income senior citizens in California and elsewhere, a major legal services program has been developed. The National Senior Citizens Law Center, funded by the Office of Economic Opportunity, has been created to insure the availability of legal services to the elderly poor "through legislative and administrative advocacy, law reform litigation, training, and provision to the extent possible of back-up services to Legal Services attorneys."<sup>4</sup>

<sup>3</sup>The Task Force acknowledges the fact that a great number of citizens do not effectively have access to legal counsel. The well-to-do can afford attorneys, the poor are eligible for legal aid assistance (where available). However, the person with the modest income is caught in the middle.

<sup>4</sup>Clearing House Review, National Clearinghouse for Legal Services, Vol. VI, Numbers 4 & 5, August-September, 1972, p. 183.

"The National Senior Citizens Law Center is funded through the Western Center on Law and Poverty. The main office will be located in Los Angeles, and branch offices will be established in Washington, D.C. and Sacramento. In addition, there will be affiliated programs in San Francisco (CRLA), Boston (Council of Elders) and New York City (Legal Services for the Elderly Poor) . . ."<sup>5</sup>

Along with legal service programs, senior citizens have two growing, national organizations working on their behalf: the National Council of Senior Citizens, with more than three million members, and the American Association of Retired Persons, with more than two million members.<sup>6</sup>

Consideration should be given to forming an office within the Department of Consumer Affairs which would serve as an advocate for the aged and the poor, so that problems peculiar to these consumers could be more effectively resolved and the impact of fraud sharply reduced. As in the *Consilio* program, "advocate" does not necessarily mean legal representation, but rather the use of the *Ombudsman* concept where a range of means may be employed to seek the best remedy. For example, negotiations with a merchant may prove more effective in obtaining restitution for a consumer than only filing a complaint with the district attorney or a State board or bureau within the Department of Consumer Affairs.

The frustrations that face anyone making a consumer fraud complaint are increased when the complainant does not speak English, lacks a telephone or lacks experience in dealing with business and with government agencies. Too often, complaints are not made at all because of the consumer's lack of trust or because of previous frustrating experiences.

For the poor, aged and non-English-speaking it is especially important that a complaint be serviced promptly the first time. Government agencies should provide for taking complaints from these consumers by telephone. Requiring a written complaint from them may discourage them from complaining formally at all. The agency receiving the complaint should itself refer it to another agency, where that is appropriate, rather than ask the consumer to do so. Unless special assistance is provided to these consumers, consumer protection will continue to benefit primarily middle-class consumers.

<sup>5</sup>Ibid.

<sup>6</sup>Ibid.

## RECOMMENDATIONS

### SPECIAL PROBLEMS OF THE POOR, THE AGED AND THE NON-ENGLISH-SPEAKING CONSUMER

The Task Force recommends that:

1. Legal aid offices maintain an index of defendants to detect patterns of abuse or deception.
2. Legal aid offices actively seek to build liaison with local police departments, prosecutors and protection agencies.
3. Emphasis be placed on securing restitution for all victims of consumer fraud wherever possible.
4. The Department of Consumer Affairs create an office to serve as advocate for low-income and aged consumers.
5. Attempts at special assistance to the poor and aged by the Department of Consumer Affairs be initiated under the proposed regionalization plan now being considered by the Department.
6. Government and private agencies receiving complaints provide for recording all pertinent facts by phone or on a form when the complainant registers the complaint personally. Sending out written forms to callers should be the exception — not the rule.
7. The Department of Consumer Affairs actively solicit cooperation from those offices dealing with the poor and the aged.

The following is a listing of statutes which relate to protection of consumers and enforcement against consumer fraud. Under the title of the specific code book are listed subject areas, with specific section numbers given. This summary is to be used as a starting point by those in law enforcement positions. It will have to be updated annually.

XI.  
 SUMMARY OF  
 CALIFORNIA CODES  
 USEFUL IN  
 CONSUMER PROTECTION

AGRICULTURE CODE

ENFORCEMENT AND PROSECUTION

7-8 Jurisdiction to arrest, serve process and prosecute.

PEST CONTROL BUSINESS

11401-11931 General Regulation  
 Violations-Misdemeanor:  
 11791 ff. AG Pest Control Business

ANIMALS - EGGS

27501-28141 General Regulation  
 Misdemeanor: 27911, 28141  
 Criminal Penalties: 27771  
 Public nuisance: 27801

MILK & MILK PRODUCTS

32501-39521 General Regulation  
 Misdemeanor: 33321, 33551, 34651, 38001  
 General violations: 35281-35282  
 Violations for *misrepresentation*:  
 Pasteurized milk 34091  
 Milk and Cream 36031  
 Oleo & Imitation cheese 39431

CANNED GOODS

40501-41581 General Regulation  
 Misdemeanor: 40961, 41551

FRUITS, NUTS, AND VEGETABLES

42501-43333 General Regulation  
 Misdemeanor: 42941  
 Penalties: 42971  
 Remedies: 43001, 43331

CROPS, SEEDS, AND NURSERY STOCK

52001-53561 General Regulation  
 Misdemeanor: 52481, 52741, 52941, 53511  
 Penalties: 52961, 53541

PROCESSORS, STORERS, DISTRIBUTORS

55401-57221 General Regulation  
 Misdemeanor: 55872, 56602, 57221  
 Penalties: 55901, 56631, 56981  
 Remedies: 55921, 56651

MARKETING

Misdemeanor: 62641  
Penalties: 60011, 61571

BUSINESS AND PROFESSIONS CODE

CONSUMER AFFAIRS ACT  
300-335

HEALING ARTS

Eyeglasses 525-527  
Discipline 527

ILLEGAL ADVERTISING

Prohibited acts: 600-601

UNEARNED REBATES, REFUNDS, AND DISCOUNTS  
600-656

General Violations  
Misdemeanor: 652, 652.5  
Prohibited arrangements between opticians and pharmacists: 654

SELECTION OF PRACTITIONER

Restraining order from district attorney for pending violation: 690

MALPRACTICE ACTIONS

General Regulation: 800-803

CHIROPRACTORS  
1000-1058

General Regulation  
Misdemeanor: 1000-17

CLINICAL LABS  
1207-1294

General Regulation  
Misdemeanor: 1287, 1289, 1290 [unprofessional conduct]

DENTISTRY  
1621-1800

General Regulation  
Offenses: 1700 ff  
Injunction: 1705  
District Attorney jurisdiction: 1703

MEDICINE  
2123-2510

General Regulation  
Crimes & Penalties: 2425-2436  
Misdemeanor: 2426  
Injunction: 2436

PHYSICIANS ASSISTANTS

2510-2522 Regulations

PRESCRIPTION LENSES

2550-2559 Regulations  
Injunction: 2559

PHYSICAL THERAPIST

2600-2654 Regulation  
Physical therapists assistants: regulation of  
unauthorized services 2655-2655.12  
Penalties: 2660-2669  
Violations: 2670-2672

NURSING EDUCATION

2701-2822 Regulation  
Misdemeanor: 2700  
Penalties: 2795, 2798

VOCATIONAL NURSING

2700-2822 Regulations  
Misdemeanor: 2885

PSYCHOLOGISTS

2900-2995 Regulations  
Misdemeanor: 2970, 2971, 2960-2965

OPTOMETRY

3000-3167 Regulations  
Misdemeanor: 3120  
Injunction: 3131

HEARING AIDS

3300-3456 Regulations  
Misdemeanor: 3420  
Injunction: 3430

OSTEOPATHY

3600-3600.3 Regulations

NURSING HOMES

3901-3950 Regulations

PHARMACY  
4000-4416

Misdemeanor: 4382, 4389  
False advertising: 4391

PSYCHIATRIC TECHNICIANS  
4500-4548

Regulations  
Misdemeanor: 4543

VETERINARY MEDICINE  
4800-4905

Regulations

#### PROFESSION & VOCATIONS

ACCOUNTANTS  
5000-5135

Regulations  
Misdemeanor: 5120  
Injunction: 5122

ADVERTISERS  
5200-5486

Regulations  
Nuisance: 5461

ARCHITECTURE  
5500-5600

Regulations

LANDSCAPE ARCHITECTURE  
5615-5685

Regulations  
Misdemeanor: 5640

ATTORNEY  
6000-6150

Regulations  
Unlawful Practice: 6131  
Unlawful Solicitation: 6152

BARBERS  
6500-6625

Regulations  
Offenses: 6600-6607  
Misdemeanor: 6600

COLLECTION AGENCIES  
6850-6955

Regulations  
Conservator: 6904-6904.3

CONTRACTORS  
7000-7150

Regulations  
Misdemeanor: 7110, 7156, 7159 (Home improvement)

COSMETOLOGY  
7300-7450

Regulations  
Misdemeanor: 7416

PRIVATE DETECTIVES  
7500-7580

Regulations  
Misdemeanor: 7560

MORTICIANS  
7600-7735

Regulations  
New Regulations: 7685, 7685.1, 7685.2, 7735-42  
Misdemeanor: 7715 SB 1268

STRUCTURAL PEST CONTROL  
8500-8697

Regulations  
Misdemeanor: 8646, 8647, 8636  
Fraud: 8642  
False Advertising: 8646

CLEANING, DYING & PRESSING  
9500-9590

Regulations  
D.A. Jurisdiction: 9590  
False Advertising: 9598.5

ELECTRONIC REPAIR  
9800-9880

Regulations  
Penalty: 9850

AUTO REPAIR  
9880-9889.21

Regulations  
Misdemeanor: 9889.20  
Penalty: 9889.21

NURSES REGISTRY  
9890-9890.120

Regulations  
Offenses: 9890.114

EMPLOYMENT AGENCIES  
9900-9995

Regulations  
Violation: 9994

**REAL ESTATE**  
10000-11700

Regulations  
"Real Estate Syndicate Act"  
Violation: 10185, 10320  
Civil Liability: 10330-10332  
Land Projects: subdivided lands-11029-11029.1  
Rescission: 11028

**BUSINESS RIGHTS**  
14000-14740

Regulations  
Damages: 14300  
Civil Action: 14320  
Injunction: 14330, 14340

Confusing similar trademarks: 14342  
Laundry supply trademarks: 14491 (Misdemeanor)

**BUSINESS REGULATIONS**  
16600-17101

REGULATION OF COMPETITION:  
16600, 16700, 16750-16758, 16800, 16804  
Penalties: 17000-17101

REPRESENTATIONS TO THE PUBLIC:  
17500-17900, 17500, 17566, 17567, 17568  
17701, 17702, 17759, 17766, 17778  
Offenses: 17538.7

Marriage; Family counsellors  
Penalties: 17830, 17831, 17868.1, 17869

**SPECIAL BUSINESS REGULATIONS**

AUTOS: 18403-18413  
FURNITURE & BEDDING: 19000-19220  
PETROLEUM PRODUCTS: 20700-20985  
Penalties: 20980  
TRADING STAMPS: 20880.5 ff  
T.V. & RADIO REPAIR: 22250-22254  
Misdemeanor: 22254  
ALCOHOL: Prohibited Acts, 23066

**CIVIL CODE**

UNRUH ACT  
1801-1812.10  
Installment sales  
Penalties: 1812.8

**UNRUH ACT (cont'd)**

Actions: 1812.10

**REES-LEVERING**  
2891 ff.

Auto installment sales  
Violations: 2983.6  
Prohibitions: 2983.7  
Venue: 2984.4

**REAL PROPERTY SALES CONTRACTS**  
2985-2985.6

**AUTO LEASING ACT**  
2985.7-2985.93

**SWIMMING POOL CONTRACTS**  
1725-1739

**FINE PRINTS**  
1740-1746

Civil penalty: 1745

**CREDIT CARDS**  
1747-1749

**CREDIT REPORTING**  
1750-1755

Criminal prosecution: 1756

**CONSUMER LEGAL REMEDIES ACT**  
1750-1784

**WARRANTIES**  
1790-1800

Mobilehome treble damages: 1794

**DANCE STUDIOS**  
1812.50-1812.79

Violations: 1812.63

HEALTH STUDIOS  
1612.80 ff

WORKS OF IMPROVEMENT  
3082-3268

Deficiency JMT, etc. 3109-3155  
Bonding: 3225, ff.

3343

Judiciary damages: Contract price minus fair market value plus more  
within discretion of court

MORTGAGES & LATE PAYMENT CHARGES  
2954 & 2954.4

PENALTY, FORFEITURE, UNFAIR COMPETITION, INJUNCTION  
3369

USE OF ANOTHER'S NAME OR LIKENESS  
3344

UNSOLICITED GOODS; UNCONDITIONAL GIFT  
1584.5, 1584.6

CORPORATIONS CODE

UNAUTHORIZED FOREIGN CORPORATIONS  
6408 (Penalty)

DOING BUSINESS IN STATE;  
FOREIGN LENDING INSTITUTIONS  
6450

FOREIGN CORPORATIONS; INABILITY TO MAINTAIN ACTION  
Penalty: 6801

FOREIGN CORPS NOT QUALIFIED  
Criminal penalty: 6800

FRAUD IN SALE OF SECURITIES  
25400

CIVIL PENALTIES & CRIMES  
25500

RETIREMENT SYSTEMS DISCLOSURE  
28000-28500

ENFORCEMENT: 28300  
PENALTY: 28301  
FALSE REPORTS PENALTY: 28302  
CEASE & DESIST: 28304

FINANCE CODE

CHECK SELLERS & CASHIERS  
12000-12400

Misdemeanor: 12102  
Embezzlement: 12102.1  
Desist order: 12103  
Comingling trust funds: 12300.3  
Trusts; use, separation: 12300.4  
Maximum charges: 12308  
False advertising: 12311  
Advertising; prorater: 12330

CREDIT UNION LAW  
14000-16000

Hearings: 14005  
Unauthorized use of name: 14003  
False rumors affecting credit union: 14005

ESCROW AGENTS  
17000-17621

Misdemeanor: 17011, 17214  
Felony: 17414  
Order to quit business: 17415  
Order to cease unlicensed business: 17416  
Unlawful commissions: 17420  
Injunction; enforcement of civil penalties: 17607

INDUSTRIAL LOAN LAW  
18000-18900

Prohibited practices: 18850-18858

PAWN BROKERS LAW  
21000 ff.

Misdemeanor: 21209



**PERSONAL PROPERTY BROKERS**  
22000 ff.

Recission: 22613  
Injunction: 22614  
Penalty: 22650, 22651  
Misdemeanor: 22653

**PREMIUM FINANCING**  
29000-29003

No Penalty

**GOVERNMENT CODE**

**KNOX-MILLS HEALTH PLAN ACT**

AG. Jurisdiction: 12530 ff.  
D.A. via AG: 15006  
D.A. as public prosecutor: 26500

**ADMINISTRATIVE PROCEDURE ACT**  
11370 ff.

[See also *Penal Code* Sections 930, 853.6 ff.]

**INVESTIGATION OF CORPORATIONS AT GOVERNOR'S DIRECTION**  
12014

**HEALTH AND SAFETY CODE**

**CANCER**  
1700-1721

Unlawful sale of drugs: 1707.1  
Misdemeanor: 1709, 1714  
Cease & desist: 1711, 1711.1  
Injunction: 1712  
Felony: 1715

**SHERMAN FOOD, DRUG & COSMETIC LAW**

Labelling: 26002, 26404  
Substantive evidence: 26030  
Immunity from prosecution: 26300  
False advertising: 26400  
Forgery, falsity: 26402  
Consumer deception: 26433  
Fair packaging: 26438, 26439  
False advertising: 26460, 26550, 26553, 26630, 26730  
Misbranded products: 26461.5  
Misdemeanor: 26801  
Burden of proof: 26813

**PURE PET FOOD ACT**

Prohibited acts: 27020  
Violations: 27021, 27033  
Injunction: 27022  
Labelling: 27031

**FOOD SANITATION**

Report violation to D.A.: 28297  
Nuisance: 28298

**HAZARDOUS SUBSTANCES ACT**

Misbranded, package: 28755, 28760  
Penalty: 28770  
Seizure, quarantine: 28783  
Forfeiture: 28785  
Injunction: 28791  
Punishment: 28862

**RETAIL FOOD PRODUCTION & MARKETING LAW**

Violation: 28862

**MOBILEHOMES**

Departmental duty: 18400  
Nuisance: 18402, 18403  
Violation: 18504, 18700  
Mobilehome accommodation structures  
Violation: 18851

**INSURANCE CODE  
PENALTIES**

Negotiations: 330, 334, 338, 358, 360  
Warranties: 447  
Cancellation: 669  
Unfair practices: 790-790.10  
Issue of securities: 829-833  
Insolvency: 984-987  
Holding company regulations: 1215.3, 1215.8, 1215.9, 1215.10, 1215.11  
Penalties: 1510  
Life insurance analysts: 1845  
Rates: 1850, 1859.1  
Burial contracts: No Penalty  
Disability Policies: 10400, 10401  
State compensation insurance fund: 11880  
Motor clubs: 12311

**PENALTIES (cont'd)**

Mortgage insurance: 12630, 12631  
Mortgage guaranty insurance: 12640.12, 12640.14, 12640.145  
Advertising: 12640.19  
Land value insurance: 12660  
D.A. Jurisdiction: 12928, 12928.6

**PUBLIC UTILITIES CODE**

2161

**HEALTH & SAFETY MISC.**

**D.A. MUST PROSECUTE:**  
Cleaning & dying: 13726-13729  
Clothing cleaning: 1237, 13451, 13454  
Food Processors: 28297, 26587, 26811, 26850

**PENAL CODE**

**FALSE/FORGED INSTRUMENTS**

115. Offering false or forged instruments to be filed of record.  
146a, 146d Use of term "Peace Officer" in name of nongovernmental organization.  
154, 155 Defendant or Debtor fraudulently concealing his property.

**CRIMINAL CONSPIRACY**

182 See especially 184(4): conspiracy to cheat and defraud any person of any property by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform such promises.

**LOTTERIES**

319-326 Lottery defined and punished.  
327 Endless chain scheme.  
351a Falsely representing goods as those of other than the true dealer, manufacturer or producer.  
382 Adulteration of foods, drugs, liquors, etc.  
383, 383b Sale of adulterated foods.  
402a Sale of adulterated candies.

**FORGERY**

470 General Section.  
(It should be noted that the obtaining of a genuine signature to a document by false and fraudulent representations make such signature so obtained a forgery.) See *Buck v. Superior Court*, 42 Cal. Rptr. 527

**FORGERY (cont'd)**

471 Making false entries in records or returns.  
473 Punishment - forgery.

**THEFT STATUTE**

484 (The most widely used statute for fraud prosecution, especially theft by false pretenses, and theft by trick and device.)  
484b Failure to apply and diversion of moneys received for improvement construction.  
484c Obtaining by false voucher and failing to use construction loan funds for claim purposes.  
484d-484i Credit card crimes.  
487 Grand Theft  
Provides that the taking of any money, property, or labor of a value in excess of \$200 becomes grand theft and a felony.  
488 Petty Theft  
Items stolen of lesser value come under Section 488, Petty Theft, a misdemeanor.  
489 Punishment for Grand Theft.  
490 Punishment for Petty Theft.  
492 Larceny of a written instrument.  
(This section is generally used in any prosecution for grand theft by false pretenses to show the face value of the document obtained by false pretenses is the value for purposes of bringing it over the \$200 limit.)

**EMBEZZLEMENT**

503 Defined.  
504a Fraudulent removal, concealment or disposition of personalty held under a lease or unfulfilled contract of sale.  
504b Debtor's fraudulent appropriation of proceeds from sale of property covered by security agreement.  
506b Accepting money under real estate sales contracts and failing to pay the holder of the underlying mortgage.  
(This is a punishment section for violation of Civil Code Sections 2985.3 and 2985.4).

**EXTORTION**

518 Defined.  
519 Threats which may constitute extortion.

EXTORTION (cont'd)

- 520 Punishment for extortion.
- 522 Obtaining signature by means of threat.
- 523 Sending threatening letters with intent to extort money, etc.
- 524 Attempts to extort money or property.
- 526 Use of documents resembling process of Court for extortion.
- 527 Publishing or selling of documents resembling process of Court.
- 532 Obtaining money, property or labor by false pretenses.
- (This section is generally used as a definition section for crimes punishable under Sections 484, 487 - Grand Theft).
- 532a Making or benefiting by false financial statements.
- 532b False representation as veteran or ex-serviceman.
- 532d Fraudulent solicitation for charitable, religious, eleemosynary purposes.
- 533 Selling land twice.
- 639, 639a Bribing officer or employer of financial institution for procuring loan or extension of credit.
- 650 Sending letters threatening to expose another, threatening to accuse him of a crime or expose or publish any of his failings or infirmities.
- 653f Solicitation to the commission of certain crimes.
- (This section is sometimes used for the prosecution of grand theft by false pretenses and forgery).
- 653m Making of annoying or threatening telephone calls.



APPENDIX D

Letters From Cooperating Agencies



OFFICE OF THE ATTORNEY GENERAL

Department of Justice

3580 WILSHIRE BLVD.  
LOS ANGELES, CALIFORNIA 90010  
(213) 620-3175

January 14, 1977

Department of Consumer Affairs  
Division of Consumer Services  
Cooperative Consumer Protection Program  
1021 O Street  
Sacramento, California 95814

Attention: June M. Lomax, Program Manager

Dear Ms. Lomax:

The Attorney General's Office is interested in a cooperative computer program that will avoid duplications and will enable the varying agencies in the State of California to more efficiently protect the public in consumer matters. We are most willing to cooperate in the development and implementation of a computer program and to share our experience in this field so as to maximize the benefits and minimize the costs.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General

By

A handwritten signature in cursive script, appearing to read "H. Elkins".

HERSCHEL T. ELKINS  
Deputy Attorney General

HTE:jw

cc: Charles Barrett

# California Consumer Affairs Association

January 12, 1977

June M. Lomax  
Division of Consumer Services  
1020 N Street  
Sacramento, CA 95814

Dear Ms. Lomax:

I am sending the information you requested for the budget.

As President of the California Consumer Affairs Association, I represent 22 local governmental consumer offices who will be providing input for this program.

Since we are all local governmental agencies we all have tighter that tight budgets, so this program will enable us to get most of our statistics on complaint trends on computer.

As those of us in the consumer protection field know white collar crime is on the uprise. We realize the importance of a centralized bank where we can get information in a matter of minutes.

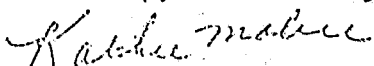
This information will help us in preparing for prosecution of a case. We also will be able to find out if anyone else in California is preparing prosecution so that another county or city maybe in to a case. At present some cases have been ready to be filed or have been filed only to find out some where else in the state a judgement has been won and the company is left without funds so that the case can't be filed.

The use of the computer will also help in finding owners/managers of businesses and the type of problems others are having with the company.

One of the biggest advantages we see with O.C.J.P. Grant is that after its inception it will cut our record keeping time down allowing us to put more time into other areas of consumer protection that need our attention.

Thank you for asking for our association help in setting up the program.

Sincerely,



Kathie Mable, Consumer Affairs Analyst  
President, California Consumer Affairs Association

KH:ql

OTHER DIVISIONS:

San Francisco  
San Diego  
San Jose  
San Bernardino  
San Mateo  
Santa Clara  
Santa Cruz  
Stanislaus  
Tulare

Stockton  
Yuba  
Luis Obispo

OTHER DIVISIONS:

Los Angeles  
Orange  
San Bernardino  
Santa Ana

San Diego  
San Marcos  
San Diego  
Santa Monica

Office of District Attorney

Special Operations Division

3201 San Pablo Avenue, Suite 300

San Pablo, California 94806

Telephone 933-7060 Ext. 3511.

H. Mesnick  
Assistant District Attorney

Contra  
Costa  
County



William A. O'Malley  
District Attorney  
Michael J. Phelan  
Chief Assistant

January 17, 1977

Ms. June Lomax  
Program Manager  
Department of Consumer Affairs  
Division of Consumer Services  
1021 "O" Street  
Sacramento, California 95814

Re: Cooperative Consumer Protection Program

Dear Ms. Lomax:

In response to your request of January 10, 1977, the following letter presents the position of the California District Attorneys Association and the various individual district attorneys' offices throughout the State of California in the above program.

For several years, the California District Attorneys Association has been studying the feasibility of an automated information system, the purpose of which would be to accumulate and process information on consumer complaints submitted to various interested state agencies. The invitation from the California Department of Consumer Affairs to participate in the Cooperative Consumer Protection Program represents the first opportunity we have had to actually participate in the implementation of such an information system.

The District Attorneys Association is very much interested in the present project being undertaken by your agency and we are prepared to cooperate with you in establishing a pilot program and hopefully implementing a permanent system.



Ms. June Lomax  
Page Two  
January 17, 1977

At the present time, of the 59 counties within the State of California, approximately 20 of those counties have active consumer fraud units. It is anticipated that most, if not all, of those 20 counties will participate initially in any system that is established. Given the increasing public awareness of remedies available and consumer fraud situations and considering the great value of a state-wide information system, we anticipate that more and more counties throughout California will establish consumer fraud units and will participate in the proposed information system.

Very truly yours,

WILLIAM A. O'MALLEY  
District Attorney



ROBERT D. BLASLER, JR.  
Deputy District Attorney

RDBJr.:sn

## Memorandum

Cooperative Consumer Protection  
Program

Date : January 25, 1977

File No.:

FROM: Don Procida  
Board/Bureau Representative

Subject: OCJP GRANT APPLICATION 1977-78 FISCAL YEAR

The primary objective of the Department of Consumer Affairs is the same as that of the CCPP to eliminate fraudulent business practices and deceptive activities. Through the early warning system, the Department will be able to protect the consumer from fraudulent business practices rather than attempting to reconcile the problem after the fact.

It is estimated that 18-20 of the Boards/Bureaus in the Department will make use of the consumer complaint data system.

The Tax Preparer Program is willing to cooperate in the establishment and operation of an early warning system.







**CONTINUED**

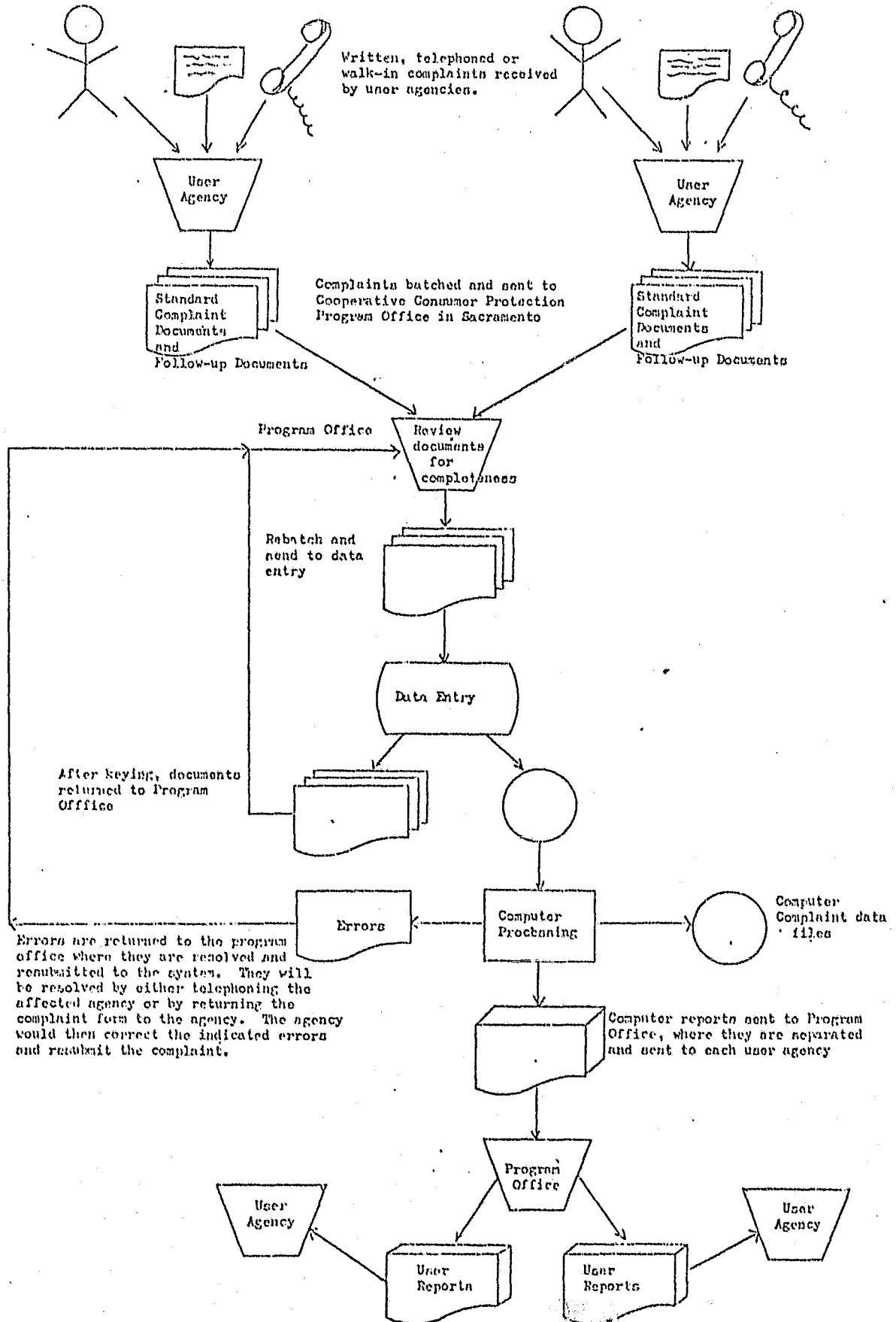
**3 OF 5**

APPENDIX E

Proposed System

# COOPERATIVE CONSUMER PROTECTION PROGRAM

## CONCEPTUAL OVERVIEW



RUN DATE: 02/01/77  
 PROGRAM : CCP001  
 AGENCY : 838 - SAC COUNTY DA

COOPERATIVE CONSUMER PROTECTION PROGRAM

COMPLAINT LISTING BY RESPONDENT FOR 2 YEAR PERIOD ENDING 01/31/77

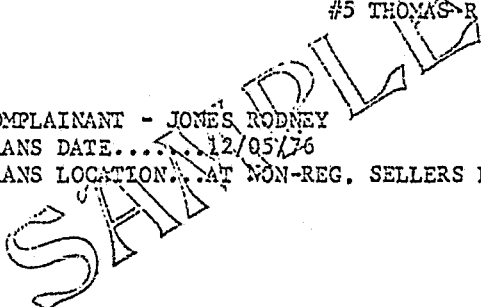
|                                                                                                                                                                                                                                                                         |                                                                                                                                                                                        |                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| ALTONS AUTO SALES AND SERVICE<br>BUSINESS.....MOTOR VEHICLES-NEW<br>INITIAL CONTACT...AT SELLER'S PREMISES<br>NATURE #1 - GENERAL SALES PRACTICES-PRODUCT REPRESENTATION<br>#2 - GENERAL SALES PRACTICES-SCARE TACTICS<br>#3 - GENERAL SALES PRACTICES-PRESSURE SELLING | COMPLAINANT - SMITH BILL<br>TRANS DATE.....12/01/76<br>TRANS LOCATION..AT SELLER'S PREMISES<br>#4 - GUARANTEE,WARRANTEE-NONFULFILLMENT<br>#5 - MERCHANDISE,SERVICE-PRODUCT QUALITY NEW | STATUS - CLOSED CASE ID - 88876121234<br>COUNTY RESP.....SACRAMENTO<br>CONTACT PERSON....JONES B |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|

DEPT FILE NO.....9999999999 LICENSE NO.....9999999999 RECEIVED FROM.....777-12/76 UNDER INVESTIGATION.12/05/76  
 CIVIL ACT FILED.....12/06/76 JUDGMENT/STATE .....01/01/77 AMT AWARDED-P .....\$1,000.00 DATE CLOSED.....01/01/77

|                                                                                |                                                              |
|--------------------------------------------------------------------------------|--------------------------------------------------------------|
| OTHER KNOWN NAMES #1 BOB ALTONS<br>#2 CENTURY AUTO SALES<br>#3 ROBERT L. ALTON | #4 SMILEN BOB ALTONS QUALITY USED CARS<br>#5 THOMAS R. SMITH |
|--------------------------------------------------------------------------------|--------------------------------------------------------------|

|                                                                                                                                                   |                                                                                                      |                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| ALTONS AUTO SALES AND SERVICE<br>BUSINESS.....MOTOR VEHICLES-NEW<br>INITIAL CONTACT...BY RATIO/TV<br>NATURE #1 MERCHANDISE,SERVICE-NOT AS ORDERED | COMPLAINANT - JONES RODNEY<br>TRANS DATE.....12/05/76<br>TRANS LOCATION..AT NON-REG. SELLERS PREMISE | STATUS - ACTIVE CASE ID - 88876121240<br>COUNTY RESP.....SACRAMENTO<br>CONTACT PERSON...JONES B |
|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|

AGENCY TOTAL FOR RESPONDENT 2



| COMPLAINTS FILED WITH OTHER AGENCIES: | AGENCY                            | RESPONDENT | NUMBER OF COMPLAINTS | DATE OF MOST CURRENT | -----LAST FOLLOW UP-----<br>TYPE | AMOUNT/DATE |
|---------------------------------------|-----------------------------------|------------|----------------------|----------------------|----------------------------------|-------------|
|                                       | 555 ALTONS AUTO SALES AND SERVICE |            | 4                    | 11/15/76             | CIVIL ACT FILED.....             | 12/06/76    |
|                                       | 666 CENTURY AUTO SALES            |            | 2                    | 11/01/76             | DISCIP ACT-WARNING..             | 11/25/76    |

OVERALL TOTAL FOR RESPONDENT 8



RUN DATE: 01/05/77  
 PROGRAM : CCPO02  
 AGENCY : ALL

COOPERATIVE CONSUMER PROTECTION PROGRAM

RESPONDENTS WITH 5 OR MORE COMPLAINTS DURING THE 12 MONTH PERIOD ENDING 12/31/76  
 COMPLAINTS HAVING ORIGINATED IN TWO OR MORE AGENCIES

| RESPONDENT        | AGENCY | AGENCY TOTAL | CONTACT   | COMPLAINT ID(S) |          |          |          |          |
|-------------------|--------|--------------|-----------|-----------------|----------|----------|----------|----------|
| ALPHA ELECTRIC CO | 777    | 5            | RIGGINS C | 76120001        | 76012102 | 76012161 | 76050161 | 76051231 |
|                   | 888    |              | CONLEY R  | 76010036        |          |          |          |          |
|                   | 888    | 3            | HEYERS B  | 76122167        | 76122136 |          |          |          |
|                   | 899    |              | JONES R   | 76051234        | 76061362 | 76073125 | 76092136 |          |
|                   |        |              | TOTAL     | 12              |          |          |          |          |

OTHER KNOWN NAMES: ALPHA ELECTRONIC SUPPLY INCORPORATED, CARTERS WIRING SERVICE, ROBERT E SMITH ELECTRIC CO

|                               |     |   |          |          |          |          |          |  |
|-------------------------------|-----|---|----------|----------|----------|----------|----------|--|
| ARAGON GAS AND WELDING SUPPLY | 212 | 2 | MARTIN J | 76042163 | 76052127 |          |          |  |
|                               | 365 |   | KILER B  | 76052176 | 76072132 | 76093856 |          |  |
|                               |     |   | TOTAL    | 5        |          |          |          |  |
| BAKER DRY CLEANING CO         | 316 | 1 | SMITH R  | 76022165 |          |          |          |  |
|                               | 486 |   | JONES B  | 76011963 | 76033974 | 76121622 | 76091361 |  |
|                               |     |   | TOTAL    | 5        |          |          |          |  |

CARTERS WIRING SERVICE --- SEE ALPHA ELECTRIC CO

|                      |     |   |         |          |          |          |  |
|----------------------|-----|---|---------|----------|----------|----------|--|
| DONNER INSULATION CO | 123 | 3 | JONES R | 76123129 | 76122163 | 76114916 |  |
|                      | 416 |   | NORTH R | 76101111 | 76113162 | 76091235 |  |
|                      |     |   | TOTAL   | 6        |          |          |  |

OTHER KNOWN NAMES: J P DONNER CO,

RUN DATE: 01/01/77  
PROGRAM : CCP005  
AGENCY : SAC COUNTY DA

COOPERATIVE CONSUMER PROTECTION PROGRAM  
REPORT OF OPEN CASES FOR PERIOD ENDING 12/31/76

PAGE 1

| CONTACT  | RESPONDENT                             | CASE ID     | CONTACT    | RESPONDENT              | CASE ID     |
|----------|----------------------------------------|-------------|------------|-------------------------|-------------|
| AVERY B  | RALPHS RADIATOR FLUSHING AND REPAIR    | 88876061956 | ELLIS D    | BUG HOUSE               | 88876061218 |
|          | TAYLOR RUSSELL AND SMITH INVESTMENTS   | 88876052163 |            | CALLI RUG CARE          | 88876042317 |
|          | WILSON CAR CARE CENTER                 | 88876072159 | FERRIS M   | BARNS CAMPUS CAR CENTER | 88876100413 |
| BATES R  | ARAGON HOSPITAL SUPPLY                 | 88876113684 |            | DICKS WAGON SHOP        | 88876122315 |
|          | CARRINGTON CARPET CLEANING             | 88876102119 |            | ECONOMY DRUG CO         | 88876121017 |
|          | DENNISON AIRCRAFT SALES                | 88876071562 | GRAMATKY G | MICHAELS MOTOR WORKS    | 88876122212 |
|          | FRANKS IMPORTED FURNITURE AND ANTIQUES | 88876101562 |            | NINAS HAIR DESIGN       | 88876080710 |
|          | GRANT TIRE SALES AND RECAPPING         | 88876092127 |            | OPIES LUNCH PLACE       | 88876082910 |
| CRAMER J | BOBS UPHOLSTERY                        | 88876053621 |            | SARAS BURGER HOUSE      | 88876072611 |
| DONNER P | CLARKS HEALTH SPA                      | 88876063125 | HERTZIG S  | FUNKIES BARBER SHOP     | 88876032610 |

RJN DATE: 03/01/77  
 PROGRAM: CCFO06  
 COUNTY: SACRAMENTO

COOPERATIVE CONSUMER PROTECTION PROGRAM

PAGE: 1

~~COMPLAINTS AGAINST COUNTY LOCATED RESPONDENTS FROM 01/01/76 TO 12/31/76~~  
~~FOR THE TWELVE MONTH PERIOD ENDING 12/31/77~~

| RESPONDENT                                                                                                                                                                                                                                                                                                                                                                                         | AGENCY/<br>BUSINESS                 | CONTACT   | STATUS | CASE ID     | -----FOLLOW UP ACTION-----<br>TYPE                                                          | AMOUNT/DATE                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------|--------|-------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------|
| ALTONS AUTO SALES AND SERVICE<br>NATURE #1 GENERAL SALES PRACTICES-PRODUCT REP<br>#2 GENERAL SALES PRACTICES-SCARE TACTICS<br>#3 GENERAL SALES PRACTICES-PRESSURE SELL<br>#4 GUARANTEE, WARRANTY-NONFULFILLMENT<br>#5 MERCHANDISE, SERVICE-PRODUCT QUALITY<br>OTHER KNOWN NAMES #1 SMILIN BOB ALTONS QUALITY<br>#2 BOB ALTONS<br>#3 ROBERT L. ALTON<br>#4 THOMAS R. SMITH<br>#5 CENTURY AUTO SALES | SAC COUNTY DA<br>MOTOR VEHICLES-NEW | JONES B   | CLOSED | 88876121234 | UNDER INVESTIGATION<br>CIVIL ACT FILED<br>JUDGMENT/STATE<br>AMT. RECOVERED-R<br>DATE CLOSED | 12/05/76<br>12/06/76<br>01/01/77<br>\$1,000.00<br>01/01/77 |
| ALTONS AUTO SALES AND SERVICE<br>NATURE #1 MERCHANDISE, SERVICE-NOT AS ORDERED                                                                                                                                                                                                                                                                                                                     | SAC COUNTY DA<br>MOTOR VEHICLES-NEW | JONES B   | ACTIVE | 88876121240 |                                                                                             |                                                            |
| BOB'S UPHOLSTERY<br>NATURE #1 GUARANTEE, WARRANTY-NONFULFILLMENT                                                                                                                                                                                                                                                                                                                                   | SAC COUNTY DA<br>UPHOLSTERY         | FANNER L  | ACTIVE | 88876053621 | <del>UNDER</del> INVESTIGATION                                                              | 06/30/76                                                   |
| CLARK'S HEALTH SPA<br>NATURE #1 MERCHANDISE, SERVICE-DEPOSIT RETURN                                                                                                                                                                                                                                                                                                                                | SAC COUNTY DA<br>HEALTH STUDIOS     | RIGGINS D | ACTIVE | 88876063125 |                                                                                             |                                                            |
| DANES IMPORTS<br>NATURE #1 MERCHANDISE, SERVICE-FAILURE TO DELIVER ANTIQUES/FINE ARTS<br>#2 MERCHANDISE, SERVICE-DEPOSIT RETURN                                                                                                                                                                                                                                                                    | SAC CITY ATTORNEY                   | SMITH L   | ACTIVE | 99976121254 | COURT ACT-ORDER<br>DISCIP ACT-WARNING                                                       | 12/05/76<br>12/30/76                                       |

SAMPLE

RUN DATE: 04/01/76  
PROGRAM : CCP009

COOPERATIVE CONSUMER PROTECTION PROGRAM

ANALYSIS OF COMPLAINTS RECEIVED FOR 1ST QUARTER ENDING MARCH 31, 1976  
ENTIRE FILE

|                                  | ---CURRENT MONTH--- |         | ---PERIOD TO DATE--- |         |
|----------------------------------|---------------------|---------|----------------------|---------|
|                                  | MARCH 1976          |         | 01/01/76 TO 03/31/76 |         |
|                                  | NUMBER              | PERCENT | NUMBER               | PERCENT |
| HOW RECEIVED                     |                     |         |                      |         |
| RECEIVED BY PERSONAL CONTACT     | 80                  | 40.00   | 120                  | 40.00   |
| RECEIVED BY REFERRAL             | 80                  | 40.00   | 62                   | 30.00   |
| RECEIVED BY MAIL                 | 40                  | 20.00   | 18                   | 30.00   |
| TOTAL                            | 200                 | 100.00  | 300                  | 100.00  |
| INITIAL CONTACT                  |                     |         |                      |         |
| BY RADIO/TV                      | 142                 | 71.22   | 240                  | 80.79   |
| AT BUYER'S PREMISES              | 43                  | 21.63   | 30                   | 13.16   |
| BY TELEPHONE                     | 15                  | 7.15    | 30                   | 6.15    |
| TOTAL                            | 200                 | 100.00  | 300                  | 100.00  |
| TRANSACTION                      |                     |         |                      |         |
| UNKNOWN                          | 106                 | 56.18   | 152                  | 54.61   |
| AT SELLER'S PREMISES             | 81                  | 37.15   | 120                  | 38.12   |
| AT BUYER'S PREMISES              | 12                  | 6.13    | 18                   | 5.29    |
| BY MAIL                          | 1                   | 0.96    | 10                   | 1.56    |
| TOTAL                            | 200                 | 100.00  | 300                  | 100.00  |
| CONTINUE FOR NATURE OF COMPLAINT |                     |         |                      |         |
| BUSINESS INVOLVED                |                     |         |                      |         |
| MONEY RECOVERED BY               |                     |         |                      |         |
| COMPLAINTS HANDLED BY            |                     |         |                      |         |
| COMPLAINTS RECEIVED FROM         |                     |         |                      |         |
| DISPOSITION                      |                     |         |                      |         |
| REFERRED TO                      |                     |         |                      |         |
| COMPLAINTS CLOSED BY             |                     |         |                      |         |
| STATUTES OR RULES INVOLVED       |                     |         |                      |         |

SAMPLE

RUN DATE: 03/31/77  
PROGRAM: CCPO10  
AGENCY: ENVIRE FILE

COOPERATIVE CONSUMER PROTECTION PROGRAM  
COMPLAINTS FOR MOTOR VEHICLES-REPAIRS  
DURING THE 6 MONTH PERIOD ENDING 03/31/77

PAGE: 1

| RESPONDENT/NATURE                                                                                                                                                                                        | CONTACT  | STATUS | CASE ID     | LICENSE NO. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------|-------------|-------------|
| A & A SKELLY SERVICE<br>MERCHANDISE,SERVICE-IMPROPER INSTALLATION .                                                                                                                                      | TAYLOR B | ACTIVE | 88876123562 | BG35629794  |
| A & L MOTOR PARTS INC<br>GENERAL SALES PRACTICES-SCARE TACTICS<br>GENERAL SALES PRACTICES-SERVICE REPRESENTATIONS<br>GUARANTEE,WARRANTY-DISCLOSURE OF TERMS<br>MERCHANDISE,SERVICE-CHARGE ABOVE ESTIMATE | SMITH J  | CLOSED | 87676093552 |             |
| AMERICAN FOREIGN CAR REPAIR<br>MERCHANDISE,SERVICE-UNATHORIZED SERVICE<br>MONEY,BILLINGS,CREDIT-COLLECTION PRACTICES                                                                                     | KELLEY B | ACTIVE | 89576092156 | A1765       |
| BAKER GENERAL MOTORS SALES AND SERVICE<br>MERCHANDISE,SERVICE-FAILURE TO DELIVER<br>MERCHANDISE,SERVICE-FAILURE TO RETURN DEPOSIT                                                                        | JONES R  | ACTIVE | 87676121356 | B21987      |
| CLARK'S MOBIL AUTO REPAIR<br>CONTRACTS-FAILURE TO PERFORM<br>CONTRACTS-FAILURE TO PROVIDE CONTRACT                                                                                                       | ALMOND J | CLOSED | 89676123519 |             |
| DICK'S MUFFLER INSTALLATION<br>GUARANTEE,WARRANTY-DISCLOSURE OF TERMS<br>MERCHANDISE,SERVICE-CHARGE ABOVE ESTIMATE                                                                                       | ROLAND B | ACTIVE | 91676092163 | PZ219765    |

SAMPLES

7

RUN DATE: 05/31/77  
PROGRAM: CCP012

COOPERATIVE CONSUMER PROTECTION PROGRAM

PAGE: 1

COMPLAINTS FOR SPECIFIC CATEGORIES

PERIOD COVERED: 01/01/77 TO 03/31/77  
FILE SEGMENT: COUNTY - SACRAMENTO, YOLO  
CATEGORIES SELECTED: INITIAL CONTACT - AT BUYER'S PREMISES  
TRANSACTION - AT BUYER'S PREMISES  
BUSINESS - BOOKS/MAGAZINES/NEWSPAPERS

| RESPONDENT/OTHER KNOWN NAMES                                                  | CONTACT                            | STATUS | CASE ID     | LICENSE NO |
|-------------------------------------------------------------------------------|------------------------------------|--------|-------------|------------|
| ABC MAGAZINE DISTRIBUTORS<br>JOHN B SMITH MAGS                                | TAYLOR R                           | ACTIVE | 88877012165 | B125687    |
| AMERICAN NEWS AND MAGAZINES CO<br>CARTERS NEWS SERVICE<br>CARTERS PERIODICALS | SMITH J                            | CLOSED | 87677031256 |            |
| BAKERS SUBSCRIPTION MAGAZINES                                                 | KELLEY B                           | ACTIVE | 76577023165 | A21635-78  |
| CARTERS NEWS SERVICE                                                          | SEE AMERICAN NEWS AND MAGAZINES CO |        |             |            |
| CARTERS PERIODICALS                                                           | SEE AMERICAN NEWS AND MAGAZINES CO |        |             |            |
| DRAKES MAGAZINES<br>RALPH E DRAKE                                             | JONES R                            | ACTIVE | 91377012165 | C21675-98  |
| FRANKS HOME MAGAZINE SALES                                                    | ROLAND B                           | ACTIVE | 81677022163 |            |

RUN DATE: 04/15/76  
PROGRAM: CCP014

COOPERATIVE CONSUMER PROTECTION PROGRAM

PAGE:

ANALYSIS OF COMPLAINTS FOR SPECIFIC CATEGORIES

PERIOD COVERED: 01/01/76 TO 12/31/76

FILE SEGMENT: AGENCY - SAC COUNTY DA

CATEGORIES SELECTED: BUSINESS - HOTELS, MOTELS, RESORTS  
BUSINESS - TRAVEL, TOURISM

NATURE OF COMPLAINT - CONTRACTS-RIGHT TO CANCEL

|                      | 01/01/76<br>NUMBER | TO 12/31/76<br>PERCENT |
|----------------------|--------------------|------------------------|
| HOW RECEIVED         |                    |                        |
| BY PERSONAL CONTACT  | 120                | 40.00                  |
| BY REFERRAL          | 62                 | 30.00                  |
| BY MAIL              | 18                 | 30.00                  |
| TOTAL                | 300                | 100.00                 |
| INITIAL CONTRACT     |                    |                        |
| BY RADIO/TV          | 247                | 80.79                  |
| AT BUYER'S PREMISES  | 32                 | 13.16                  |
| BY TELEPHONE         | 31                 | 6.15                   |
| TOTAL                | 300                | 100.00                 |
| TRANSACTION          |                    |                        |
| UNKNOWN              | 152                | 54.61                  |
| AT SELLER'S PREMISES | 120                | 38.12                  |
| AT BUYER'S PREMISES  | 18                 | 5.29                   |
| BY MAIL              | 10                 | 1.56                   |
| TOTAL                | 300                | 100.00                 |

CONTINUE FOR OTHER INPUT CATEGORIES

ADD  CHANGE  DELETE

| I.D. NUMBER                  | RECEIVED FROM                     | CONTACT PERSON                    | COMPLAINANT      | COMPLAINANT AREA      | PRODUCT OR SERVICE (see reverse)                                            | FILE NO    |
|------------------------------|-----------------------------------|-----------------------------------|------------------|-----------------------|-----------------------------------------------------------------------------|------------|
| agency/mo/da/yr/seq          | agency/mo/yr                      | last name                         | name             | county                | code                                                                        | department |
| HOW RECEIVED<br>(circle 1 #) | INITIAL CONTACT<br>(circle 1 #)   | TRANSACTION PLACE<br>(circle 1 #) | TRANSACTION DATE | RESPONDENT AREA       | RESPONDENT LICENSE NO.                                                      |            |
| 101 Mail                     | 121 Seller's Premises             | 131 Seller's Premises             | 138              | county                |                                                                             |            |
| 102 Telephone                | 122 Buyer's Premises              | 132 Buyer's Premises              | mo/da/yr         | RESPONDENT LEGAL NAME | I- Individual <input type="checkbox"/> B- Business <input type="checkbox"/> |            |
| 103 Walk-in                  | 123 Non-regular Seller's Premises | 133 Non-regular Seller's Premises |                  | OTHER KNOWN NAMES     | I <input type="checkbox"/> B <input type="checkbox"/>                       |            |
| 104 Referral                 | 124 Telephone                     | 134 Telephone                     |                  |                       | I <input type="checkbox"/> B <input type="checkbox"/>                       |            |
| 105 Notice of Viol.          | 125 Radio/T.V.                    | 135 Mail                          |                  |                       | I <input type="checkbox"/> B <input type="checkbox"/>                       |            |
| 106 Agency Inst.             | 126 Newspaper/Magazine            | 136 No Transaction                |                  |                       | I <input type="checkbox"/> B <input type="checkbox"/>                       |            |
| 107 Transient Crew Report    | 127 Mail Solicitation             | 137 Unknown                       |                  |                       |                                                                             |            |
|                              | 128 Unknown                       |                                   |                  |                       |                                                                             |            |

NATURE OF COMPLAINT (circle up to 5)

CONTRACTS

- 201 Disclosure of Terms
- 202 Failure to Provide Contract
- 203 Failure to Perform
- 204 Oppressive/Unfair Term
- 205 Partial Performance
- 206 Representation of Terms
- 207 Right to Cancel

GUARANTEE, WARRANTY

- 230 Disclosure of Terms
- 231 Expired after Unsatisfactory Service
- 232 Nonfulfillment
- 233 Not Submitted as Promised
- 234 Representation of Terms

MONEY, BILLING, CREDIT continued

- 253 Creditor Agreement or Practice
- 254 Creditor Remedy
- 255 Disclosure of Terms
- 256 Interest of Credit Charge
- 257 Prepayment Rebate
- 258 Representation of Terms
- 259 Unconscionable Credit Practice
- 260 Unsolicited Credit Cards

301 Restricted Information

302 17508 Letter \_\_\_\_\_  
mo/da/yr

303 Statute \_\_\_\_\_ (optional)  
Rule \_\_\_\_\_ (optional)

INITIAL DISPOSITION

304 Referred to \_\_\_\_\_  
agency/mo/da/yr

305 Transferred to \_\_\_\_\_  
agency/mo/da/yr

306 Non-User Complaint Information \_\_\_\_\_  
mo/da/yr

FINAL DISPOSITION

307 Date Closed \_\_\_\_\_  
mo/da/yr

308 Money Awarded \$ \_\_\_\_\_ 309 Recovered \$ \_\_\_\_\_  
Penalties \$ \_\_\_\_\_  
Restitutions \$ \_\_\_\_\_  
Date \_\_\_\_\_ mo/da/yr \_\_\_\_\_ mo/da/yr

Remarks \_\_\_\_\_

MERCHANDISE, SERVICE

- 235 Charge Above Estimate
- 236 Charging for Service/Repairs Not Performed
- 237 Excessive Price or Charge

OTHER PRACTICES & SALES SCHEMES

- 261 Below Cost Sales
- 262 Bushing

SAMPLE - COMPLAINT DATA INPUT FORM

Number to the left of description is circled, and later keyed by data entry.

MONEY, BILLINGS, CREDIT

- 246 Unwarranted Service or Repair/Maintenance
- 249 Billing or Credit Computations
- 250 Billing Schemes
- 251 Collection Practices
- 252 Credit Discrimination

- 273 Restraint of Trade
- 274 Theft by Fraud
- 275 Trading Stamp Redemption
- 276 Unconscionable Practice/Non-Credit
- 277 Unfair Discrimination in Trade
- 278 Unsolicited Merchandise
- 279 Utility Meter Reading
- 280 Weights and Measures
- 281 Zoning

Reorganization  
Liquidation of  
Assets/Charges  
Title  
Obtain License  
Licenses

10



PRODUCT OR SERVICE

CIRCLE ONE AND INSERT CODE ON OTHER SIDE

501 Accounting Services  
 502 Advertising Services  
 503 Agricultural Equipment/Products  
 504 Animals/Pets  
 505 Antiques/Fine Arts  
 506 Appliances  
 507 Architectural Services  
 508 Bank/Credit Unions/Savings & Loan  
 509 Barber Shops/Services  
 510 Beauty Shops/Services  
 511 Boats and Boat Motors  
 512 Books/Magazines/Newspapers  
 513 Business Opportunities/Franchises  
 514 Carpets/Floor Coverings  
 515 Catalogue Sales  
 516 Cemetery Services/Products  
 517 Charitable Solicitations  
 518 Chiropractic Services  
 519 Clothing/Jewelry/Accessories  
 520 Collection Agencies  
 521 Construction - Commercial  
 522 Construction - Residential  
 523 Contests/Puzzles  
 524 Correspondence Schools  
 525 Cosmetics  
 526 Coupon Books  
 527 Credit Cards  
 528 Credit Reporting Agencies  
 529 Dance Studios  
 530 Dating Services/Social Clubs  
 531 Dental Services  
 532 Discount Buying Services  
 533 Dispensing Opticians  
 534 Drugs  
 535 Education  
 536 Employment Agencies  
 537 Employment Agencies - Nurses  
 538 Energy/Resource Conservation  
 539 Engineering Services  
 540 Entertainment/Recreation  
 541 Finance Companies  
 542 Food and Beverages  
 543 Food Plans  
 544 Funeral Services/Products  
 545 Furniture/Furnishings

546 Games/Toys  
 547 Gardening/Nursery  
 548 Gasoline/Fuels  
 549 General Merchandising  
 550 Governmental Agencies  
 551 Hardware  
 552 Health Products  
 553 Health Studios/Spas  
 554 Hearing Aids  
 555 Heating & Air Conditioning  
 556 Home Improvements  
 557 Hospitals  
 558 Hotels/Motels/Resorts  
 559 Housewares  
 560 Insurance - Automobile  
 561 Insurance - Credit  
 562 Insurance - Health  
 563 Insurance - Other  
 564 Invention Services

591 Pharmacists/Pharmaceuticals  
 592 Photography  
 593 Physical Therapy  
 594 Physicians and Surgeons  
 595 Professional Services  
 596 Promotions  
 597 Psychological/Psychiatric Services  
 598 Pyramid Distributorships  
 599 Real Estate - Leases  
 600 Real Estate - Sales  
 601 Records/Tape Clubs  
 602 Safety/Protection  
 603 Shorthand Reporting Services  
 604 Sporting Goods  
 605 Stereo Recording Equipment  
 606 Swimming Pools  
 607 Tax Avoidance Plans  
 608 Tax Preparers  
 609 Television/Radio  
 610 Therapy/Awareness Programs  
 611 Trailers/Campers  
 612 Travel/Tourism  
 613 Upholstery  
 614 Utilities  
 615 Vending Machines  
 616 Work-at-home Plans  
 617 Miscellaneous (Insert in remarks section on the other side of this form)

SAMPLE - COMPLAINT DATA INPUT FORM

Reverse Side

576 Motor Vehicles - Recreational  
 577 Motor Vehicles - Rental  
 578 Motor Vehicles - Repair  
 579 Motor Vehicles - Salvage  
 580 Motor Vehicles - Tires  
 581 Motor Vehicles - Used  
 582 Moving and Storage  
 583 Music/Musical Instruments  
 584 Nursing Homes  
 585 Nursing - Registered  
 586 Nursing - Vocational  
 587 Office Equipment & Supplies  
 588 Optometry  
 589 Osteopathic Services  
 590 Pest Control

FOLLOW-UP DOCUMENT

- 1. ADD  CHANGE  DELETE
- 2. COMPLAINT I.D. NO. \_\_\_\_\_  
agency/mo/da/yr/seq no
- 3. CASE CLOSED \_\_\_\_\_  
mo/da/yr
- 4. REFERRED TO \_\_\_\_\_  
agency/mo/da/yr
- 5. UNDER ACTIVE INVESTIGATION \_\_\_\_\_  
mo/da/yr
- 6. ASSURANCE OF VOLUNTARY COMPLIANCE \_\_\_\_\_  
mo/da/yr
- 7. CITATION HEARING \_\_\_\_\_  
mo/da/yr
- 8. CRIMINAL ACTION FILED \_\_\_\_\_  
mo/da/yr
- 9. CIVIL ACTION FILED \_\_\_\_\_  
mo/da/yr
- 10. COURT ACTION
  - A. TRO/Preliminary Injunction \_\_\_\_\_ mo/da/yr
  - B. Judgment with Injunction \_\_\_\_\_ mo/da/yr
  - C. Judgment for State \_\_\_\_\_ mo/da/yr
  - D. Judgment for Respondent \_\_\_\_\_ mo/da/yr
  - E. Order \_\_\_\_\_ mo/da/yr
  - F. Dismissed \_\_\_\_\_ mo/da/yr
- 11. ADMINISTRATIVE ACTION
- 12. ADMINISTRATIVE ACTION
  - A. Revocation \_\_\_\_\_ mo/da/yr
  - B. Suspension \_\_\_\_\_ mo/da/yr
  - C. Probation \_\_\_\_\_ mo/da/yr
- 13. MONEY AWARDED
 

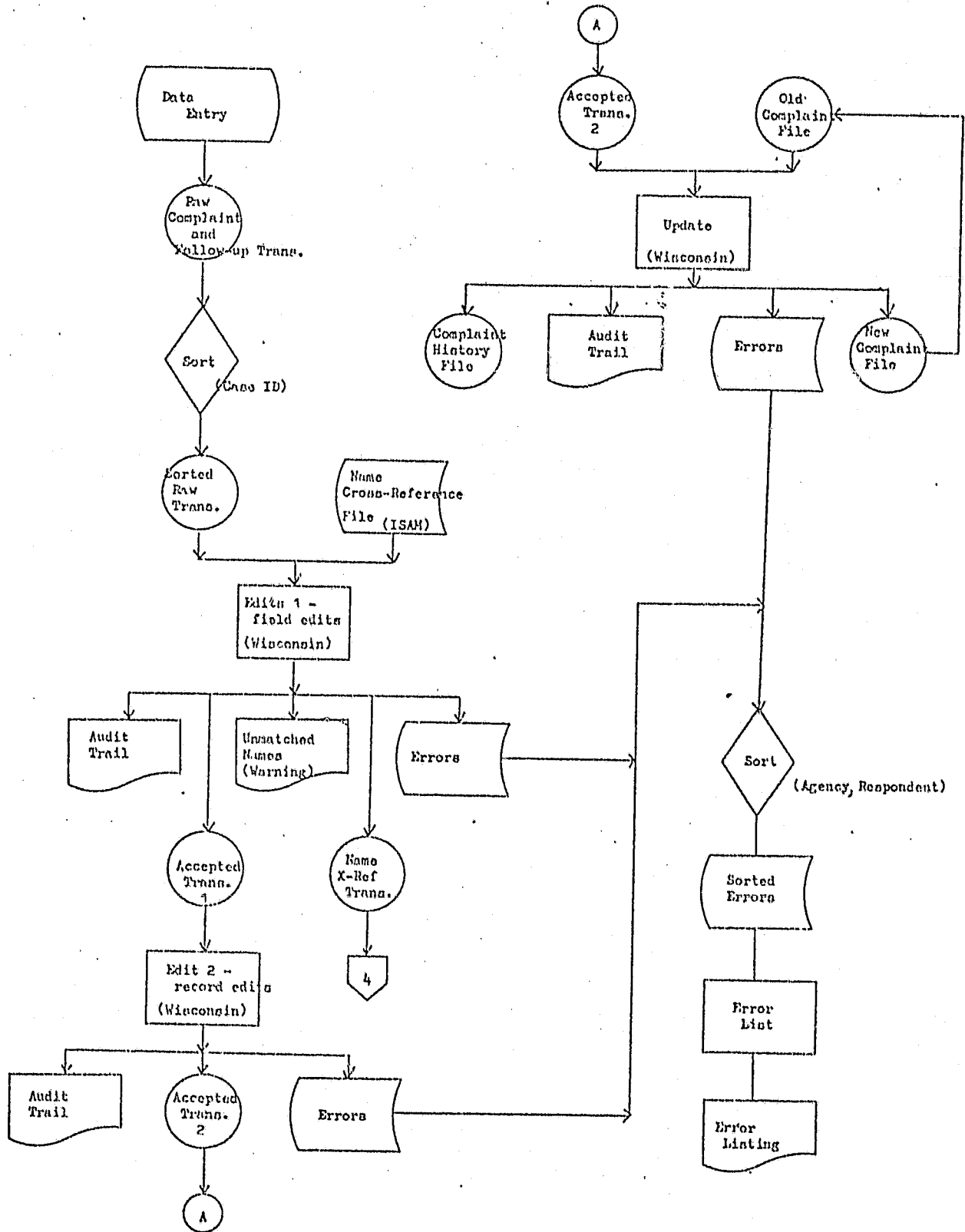
|                                                                   |                                                                     |
|-------------------------------------------------------------------|---------------------------------------------------------------------|
| MONEY AWARDED<br>A. Penalties \$ _____<br>B. Restitution \$ _____ | MONEY RECOVERED<br>A. Penalties \$ _____<br>B. Restitution \$ _____ |
|-------------------------------------------------------------------|---------------------------------------------------------------------|
- 14. DISPOSITION (Counties only)
  - A. For Consumer
  - B. For Merchant
  - C. Compromised
- 15. RESTRICTED INFORMATION  CLEAR RESTRICTION

SAMPLE - COMPLAINT FOLLOW-UP FORM

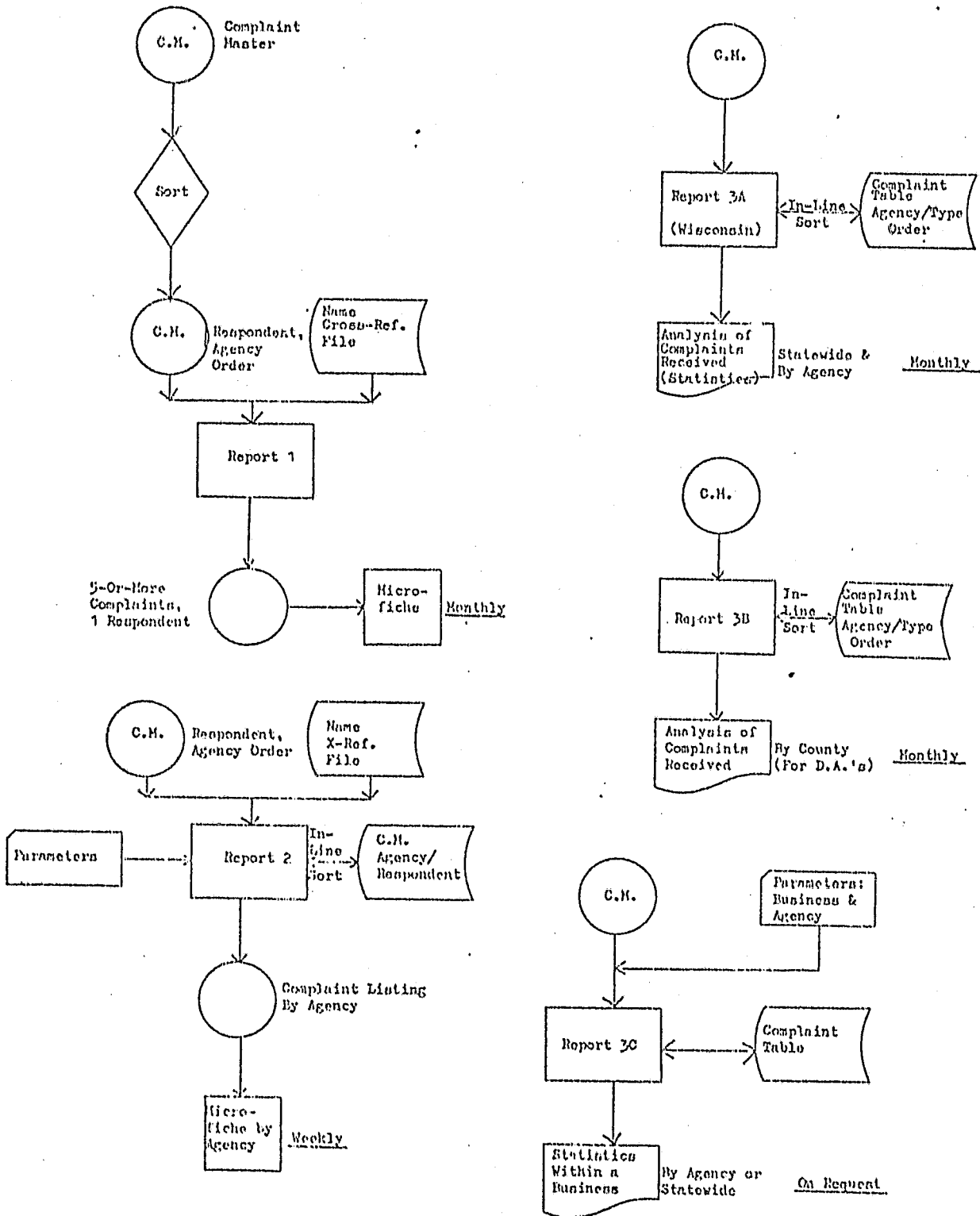
Used to input mandatory and optional follow-up information.

# COOPERATIVE CONSUMER PROTECTION PROGRAM

## COMPLAINT MASTER UPDATE CYCLE

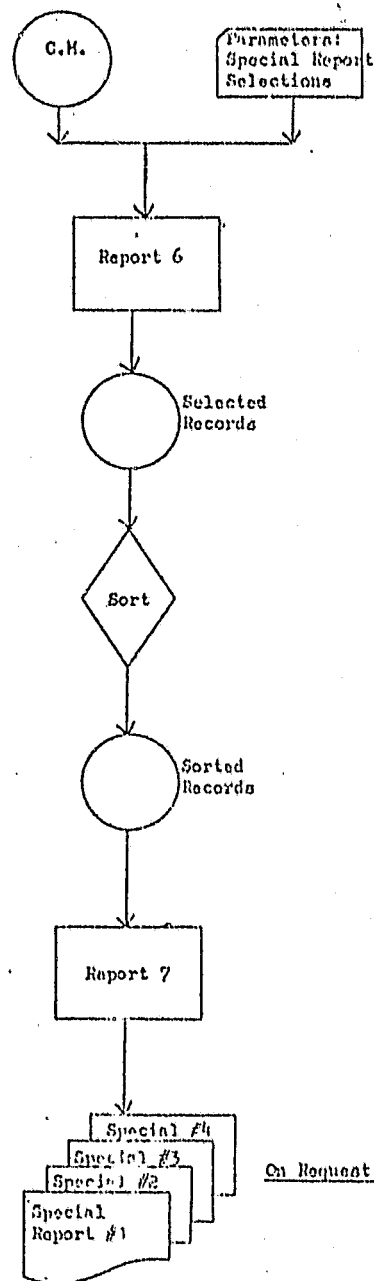
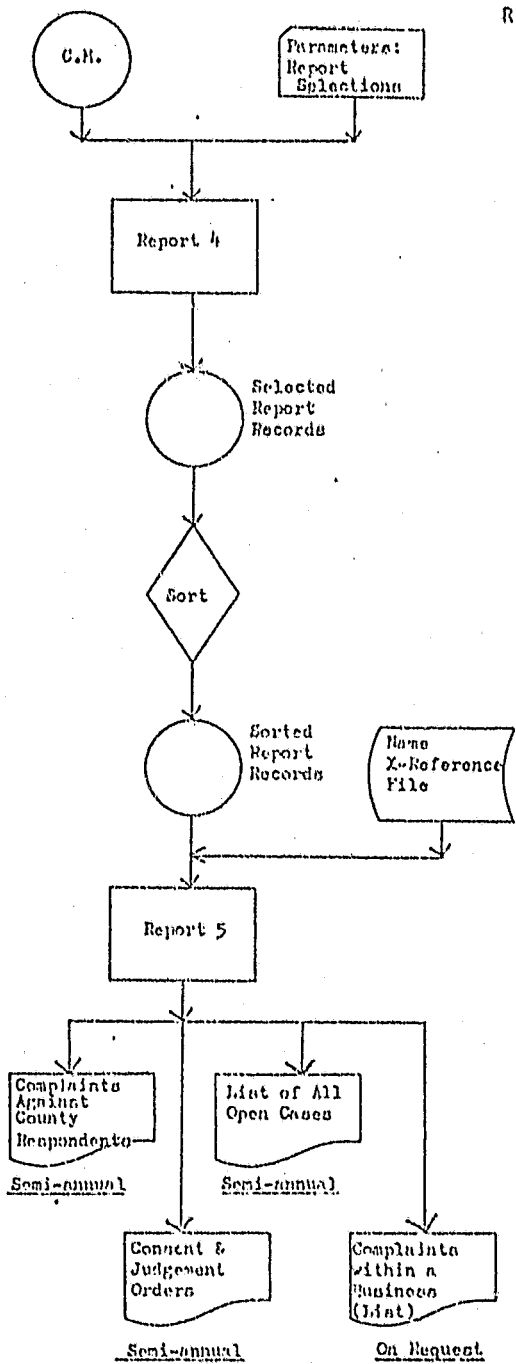


## COOPERATIVE CONSUMER PROTECTION PROGRAM REPORT PROGRAMS



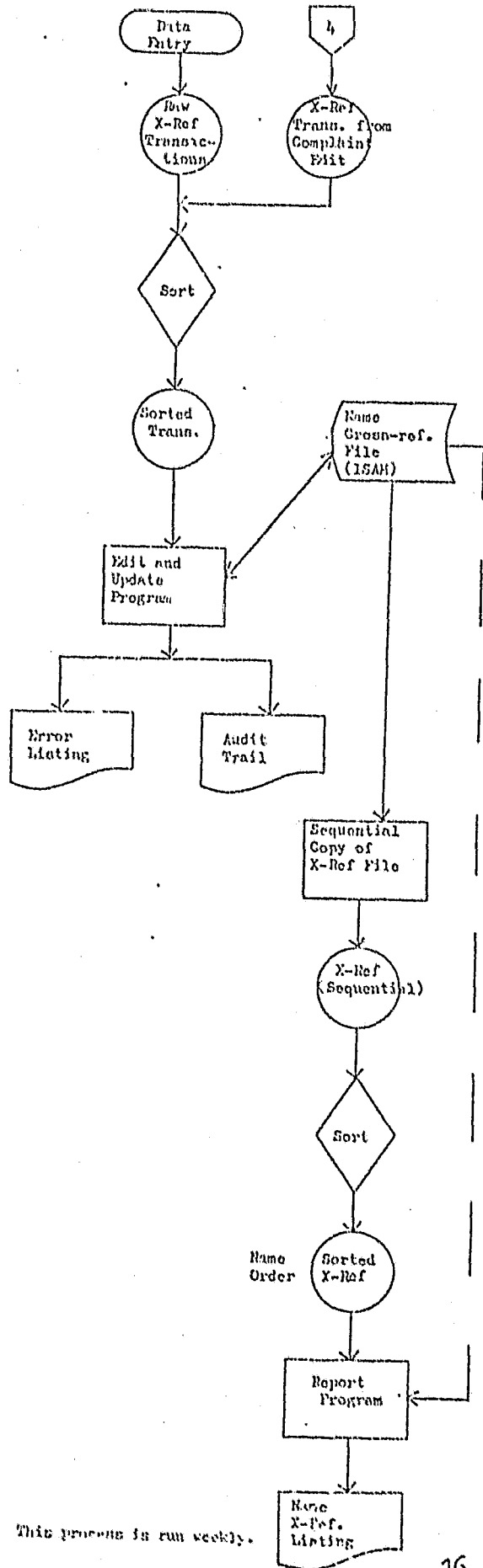
COOPERATIVE CONSUMER PROTECTION PROGRAM

REPORT PROGRAMS

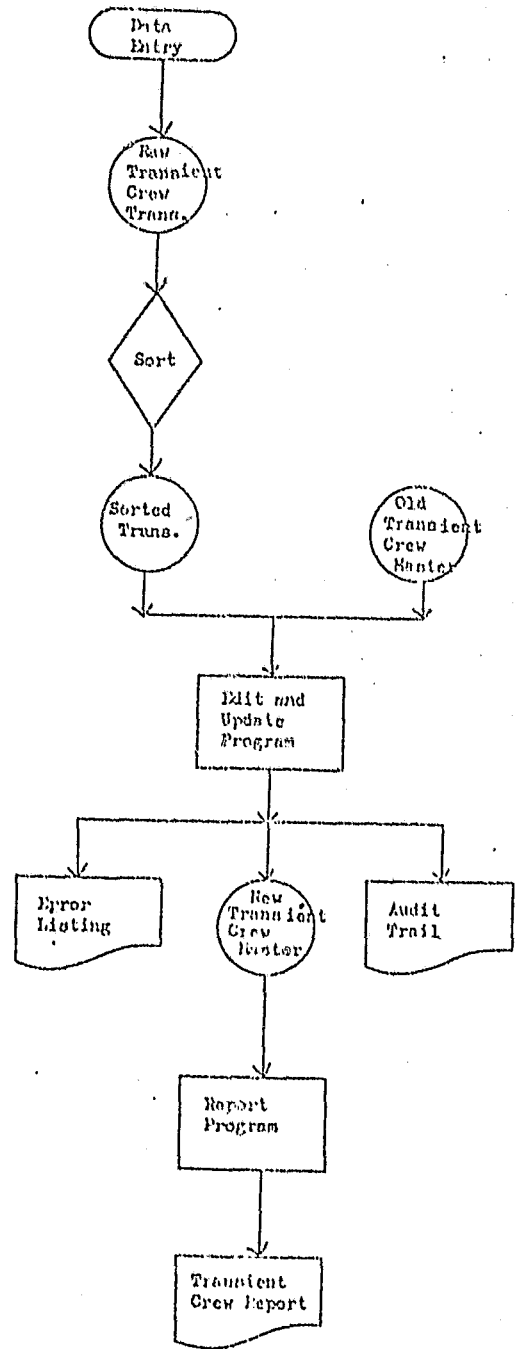


COOPERATIVE CONSUMER PROTECTION PROGRAM

NAME CROSS-REFERENCE SUBSYSTEM



TRANSIENT CREW SUBSYSTEM



## Description of Programs in Proposed System

### Complaint Edit #1

Edits each field on transaction for valid codes. Compares respondent name with name cross-reference file and generates a warning if there is no match. Produces an audit trail and an error exception report. One of the Wisconsin programs to be modified.

### Complaint Edit #2

Edits each transaction record for valid format. Checks for required fields or combinations of fields. Produces an audit trail and an error exception report. One of the Wisconsin programs to be modified.

### Complaint Update

Updates complaint file using validated transactions. Entire records or fields within a record may be added, changed, or deleted. Produces an audit trail and an error exception report. One of the Wisconsin programs to be modified.

### Report 1 (Five-or-More)

Produces a report of all respondents against whom five or more complaints have been received statewide. If aliases have been used, all complaints against any alias are also included. This report will be produced on microfilm.

### Report 2 (Complaint Listing)

Produces a listing, by user agency, of all complaints received by that agency. This report references complaints received by other agencies against the same respondent. The report will be produced on microfiche.

### Report 3A (Analysis of Complaints)

Produces a statistical report showing the various types of activity within the State. Report is broken down by agency and statewide. One of the Wisconsin programs to be modified.

Report 3B (Analysis of Complaints)

Same as Report 3A. Broken down by county for use by the county District Attorneys.

Report 3C (Analysis of Complaints)

Same as Report 3A. Statistics tabulated for a specific business, for selected agency or group of agencies.

Report 4 (Report Selector #1)

Any combination of the following reports can be selected: list of open cases, consent and judgment orders, complaints by county, complaints within a business. The complaint file is read and report records are selected and reformatted for each of the selected reports. These records are sorted and passed to Report 5 for printing.

Report 5 (Report Writer #1)

Prints the records passed from Report 4. Up to 4 reports can be printed using this program.

Report 6 (Report Selector #2)

Same as Report 4, for special reports not yet determined.

Report 7 (Report Writer #2)

Prints the records passed from Report 6.

Name Cross-Reference Edit & Update

Edits cross-reference transactions. Updates the name cross-reference master file with the valid transactions. Produces an audit trail and an error exception report.

Name Cross-Reference Listing

Produces a cross-reference listing of all names and aliases on the file.

Error Listing

Prints errors and exceptions from the complaint edit and update programs. The errors will be sorted together so that all errors for one complaint appear together.



Transient Crew Edit & Update

Edits transient crew transactions. Updates the transient crew master file with the valid transactions. Produces an audit trail and an error exception report.

Transient Crew Listing

Produces a report showing transient crew activity in California.

The above two programs make up an independent subsystem of this project. As they are not critical to the operation of the system as a whole, their implementation will be delayed until after the six month evaluation period.

## Implementation Plan

In order to refine the system operation before offering it for wholesale statewide use, there will be a six month implementation period. The participating user agencies will be providing constant feedback throughout the length of the implementation period concerning reports, processing schedules, and the addition and deletion of codes based on useage. The participants were selected on the basis of geographic location and type of agency (District Attorney, Regulatory Board, etc.). In this manner a representative cross-section of the potential user population was obtained in order to properly evaluate the system. The participants handle about 22% of the total probable system volume. They are listed below.

| <u>AGENCY</u>                  | <u>ANNUAL NUMBER OF COMPLAINTS</u> |
|--------------------------------|------------------------------------|
| Department of Justice          |                                    |
| Attorney General - statewide   | 15,000                             |
| Department of Consumer Affairs |                                    |
| Boards/Bureaus                 |                                    |
| Automotive Repair              | 20,500                             |
| Contractors                    | 34,000                             |
| Funeral Directors              | 300                                |
| Repair Services                | <del>6,600</del> 3,200             |
| <del>3,300</del>               |                                    |
| <del>3,300</del>               |                                    |
| County Consumer Protection     |                                    |
| Agencies                       |                                    |
| Los Angeles                    | <del>42,000</del>                  |
| Orange                         | <del>4,800</del>                   |
| Sacramento                     | 1,300                              |
| San Francisco                  | <del>3,600</del> 4,000             |
| Santa Cruz                     | <u>4,000</u>                       |
|                                | 25,700                             |
| District Attorneys             |                                    |
| (Counties)                     |                                    |
| Alameda                        | <del>800</del> 1,000               |
| Contra Costa                   | 1,100                              |
| Los Angeles                    | 2,000                              |
| Sacramento                     | 1,300                              |
| San Diego                      | 1,100                              |
| San Mateo                      | 400                                |
| Santa Clara                    | <u>1,000</u>                       |
|                                | 7,700                              |
| TOTAL INITIAL PARTICIPATION    | 109,800                            |

### Pilot Evaluation

In addition to the ongoing evaluation of the system, and the modifications made in response to those evaluations, a final evaluation will be made at the end of the six month implementation period. If any changes to the system are indicated after this evaluation, they will be made at this point.

### Plan for Statewide Implementation

The goal of the program is to add 5 - 10 new user agencies each year, and to eventually include in this system every complaint handling agency in the state. Obtaining a minimum of twenty-five user agencies is critical to the success of this program. Without a large data base, the reports generated will be incomplete or may even present an inaccurate picture of statewide complaint activity. This will at best dilute the effectiveness of the program, and at worst channel investigatory efforts away from the real problem areas.

During the implementation period, and for approximately the first year and a half of statewide operation, federal grant funds will pay the complete cost of the program operation. There will be no problem securing users. The method of continued funding at the end of the grant may, however, affect both current and future users of the system. If the system is to be completely user funded, some users may have to withdraw from participation due to budgetary constraints. Others will not become new users for the same reason. It will be most desirable, therefore, to obtain either another federal grant, or partial or complete state funding of this system at the end of the current grant.

### Post - Implementation Evaluation

This evaluation will be made on the basis of the performance and measurement criteria previously indicated in this study. An evaluation plan will be

submitted to the Department of Finance 3 - 6 months prior to the actual evaluation. It will occur after the first full year of implementation.



Implementation - Manpower Chart

| TASK DESCRIPTION                                       | 1    | 2    | 3    | 4    | 5    | 6    | 7    | 8    | 9    | 10   | 11   | 12   | 13   | 14   | 15   | 16   | 17   | 18   | 19   | 20   | 21   | 22   | 23   | 24   | 25   | 26   | 27   | 28   | Total<br>Prog-<br>Time | Total<br>An-<br>Time |     |
|--------------------------------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------------------------|----------------------|-----|
| 1 Finalize data                                        | A-80 | A-80 | A-20 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 2 Finalize system design                               |      | A-60 | A-20 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 3 Evaluate Wisconsin programs                          |      |      | A-40 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 4 Design data files                                    |      |      | A-20 | A-80 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 5 Write complaint edit specs.                          |      |      |      |      | A-30 | A-15 | A-15 | A-15 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 6 Write complaint update specs.                        |      |      |      |      | A-10 | A-10 | A-10 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 7 Write complaint edit and update programs             |      |      |      |      |      |      |      | P-30 | P-40 | P-20 | P-30 | P-30 | P-10 | P-10 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        | 450                  |     |
| 8 Write Cross-Ref. specs.                              |      |      |      |      |      |      |      | A-15 | A-15 | A-15 | A-15 | A-15 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 9 Write Cross-Ref. programs                            |      |      |      |      |      |      |      |      |      |      |      | P-10 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 | P-30 |                        | 400                  |     |
| 10 Write specifications non-statistical reports        |      |      |      |      |      |      |      |      |      | A-15 | A-15 | A-15 | A-15 | A-15 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 11 Write specifications - statistical programs         |      |      |      |      |      |      |      |      |      | A-20 | A-20 | A-20 | A-20 | A-20 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 12 Write first group of report programs                |      |      |      |      |      |      |      |      |      |      |      | P-30 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 | P-80 |      |                        | 750                  |     |
| 13 Develop R.E. procedures                             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 14 User training for capture of history data           |      |      |      |      |      | A-10 | A-25 | A-25 | A-10 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 15 Collection and primary edit - history               |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 16 Create program test data                            |      |      |      |      |      |      |      |      |      |      | A-10 | A-10 | A-10 | A-10 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 17 Test programs                                       |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 18 Create system test data                             |      |      |      |      |      |      |      |      |      |      |      |      | A-20 | A-20 |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 19 Test system                                         |      |      |      |      |      |      |      |      |      |      |      |      | A-10 | A-30 | A-20 | A-5  | A-5  | A-5  | A-5  | A-5  | A-5  |      |      |      |      |      |      |      |                        |                      |     |
| 20 Write user instructions                             |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-15 | A-15 | A-15 | A-15 |      |      |      |      |      |      |      |      |                        |                      |     |
| 21 Specifications-2nd group report programs (1st half) |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-10 | A-10 | A-10 | A-10 | A-10 |      |      |      |      |                        |                      |     |
| 22 Specifications-2nd group report programs (2nd half) |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-15 | A-15 | A-15 | A-15 | A-15 |      |      |      |                        |                      |     |
| 23 Write and test 2nd group report programs            |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | P-80 | P-80 | P-80 | P-80 | P-80 | P-80                   | P-80                 | 550 |
| 24 Document programs                                   |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |                        |                      |     |
| 25 Document system                                     |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-20                   | A-20                 |     |
| 26 Build initial history file                          |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-20 | A-20 | A-20 | A-10 | A-10 | A-10 |      |      |      |      |      |      |      |                        |                      |     |
| 27 Implement system                                    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      | A-25 | A-40 | A-40 | A-40 |      |      |      |                        |                      |     |
| TOTAL PROGRAMMER TIME                                  |      |      |      |      |      |      |      | 30   | 80   | 80   | 80   | 160  | 160  | 160  | 142  | 142  | 142  | 142  | 142  | 142  | 130  | 30   | 80   | 80   | 80   | 80   | 80   | 80   | 80                     | 70                   |     |
| TOTAL ANALYST TIME                                     |      | 80   | 80   | 80   | 80   | 80   | 30   | 50   | 50   | 50   | 40   | 50   | 60   | 80   | 75   | 30   | 40   | 40   | 40   | 40   | 40   | 80   | 80   | 65   | 65   | 15   |      | 20   | 20                     |                      |     |
| Dept. of Consumer Affairs                              |      | 40   | 40   | 40   | 40   | 40   | 40   | 40   | 40   | 40   | 30   | 40   | 40   | 40   | 35   | 30   | 40   | 40   | 40   | 40   | 40   | 40   | 40   | 35   | 35   |      |      | 20   | 20                     |                      |     |
| Dept. of General Services - Dedicated                  |      | 40   | 40   | 40   | 40   | 40   | 10   | 10   | 40   | 40   | 40   | 50   | 50   | 40   | 40   | 32   | 32   | 32   | 32   | 32   | 32   | 40   | 40   | 30   | 30   | 15   |      |      |                        |                      |     |

23



APPENDIX F

Detailed Cost Estimates



Alternative Two - Manual System

FIRST YEAR COSTS (1976/77 dollars)

I. Personnel Costs

A. Development (3 months): develop input forms,  
write user instructions and procedures, etc.

|                                 |              |        |
|---------------------------------|--------------|--------|
| 1. Project Director (5%)        | 383          |        |
| 2. Program Manager (S.S.M. III) | 5,748        |        |
| 3. Staff Services Analyst       | 2,750        |        |
| 4. Senior Stenographer          | 2,469        |        |
| 5. Senior Clerk (2)             | 4,824        |        |
| 6. Personnel Benefits           | <u>3,963</u> | 20,137 |

B. Production (9 months)

|                               |               |         |
|-------------------------------|---------------|---------|
| 1. Project Director (5%)      | 1,151         |         |
| 2. Program Manager            | 17,244        |         |
| 3. Staff Services Analyst (4) | 34,603        |         |
| 4. Senior Stenographer        | 7,407         |         |
| 5. Statistical Clerk (4)      | 28,944        |         |
| 6. Senior Clerk (2)           | 14,472        |         |
| 7. Clerk Typist (3)           | 18,225        |         |
| 8. Clerk II (12)              | 72,900        |         |
| 9. Personnel Benefits         | <u>47,761</u> | 242,707 |

II. Operating Expenses and Equipment (12 months)

|                                                |               |         |
|------------------------------------------------|---------------|---------|
| A. Travel (1000/month)                         | 12,000        |         |
| B. General Operating Expense<br>(129,512/year) | 129,512       |         |
| C. Equipment (8000/year)                       | <u>28,000</u> | 169,512 |

TOTAL First Year Cost 432,356

Alternative Two - Manual System (Con't.)

SECOND YEAR COSTS

|                                      |                   |         |
|--------------------------------------|-------------------|---------|
| I. Personnel Costs (from Table 6)    | 347,565           |         |
| + 10% Inflation                      | 34,757            |         |
| + 24.5% Benefits                     | 93,669            | 475,991 |
|                                      | <u>          </u> |         |
| II. Operating Expenses and Equipment |                   |         |
| A. Travel 12,000 + 10%               | 13,200            |         |
| B. General Operating Expense         |                   |         |
| 159,152 + 10%                        | 175,067           |         |
| C. Equipment                         | 7,000             | 195,267 |
|                                      | <u>          </u> |         |
|                                      |                   |         |
| TOTAL Second Year Cost               |                   | 671,258 |

THIRD YEAR COSTS

|                                      |                   |                   |
|--------------------------------------|-------------------|-------------------|
| I. Personnel Costs (from Table 6)    | 410,289           |                   |
| + 20% Inflation                      | 82,058            |                   |
| + 24.5% Benefits                     | 120,625           | 612,972           |
|                                      | <u>          </u> |                   |
| II. Operating Expenses and Equipment |                   |                   |
| A. Travel 12,000 + 20%               | 14,400            |                   |
| B. General Operating Expense         |                   |                   |
| 188,792 + 20%                        | 226,550           |                   |
| C. Equipment                         | 7,000             | 247,950           |
|                                      | <u>          </u> | <u>          </u> |
|                                      |                   |                   |
| TOTAL Third Year Cost                |                   | 860,922           |

Alternative Two - Manual System (Con't.)

FOURTH YEAR COSTS

|                        |                                            |                |                |
|------------------------|--------------------------------------------|----------------|----------------|
| I.                     | Personnel Costs (from Table 6)             | 476,638        |                |
|                        | + 30% Inflation                            | 142,992        |                |
|                        | + 24.5% Benefits                           | <u>151,809</u> | 771,439        |
| II.                    | Operating Expenses and Equipment           |                |                |
| A.                     | Travel 12,000 + 30%                        | 15,600         |                |
| B.                     | General Operating Expense<br>218,432 + 30% | 283,962        |                |
| C.                     | Equipment                                  | <u>15,000</u>  | <u>314,562</u> |
| TOTAL Fourth Year Cost |                                            |                | 1,086,001      |

FIFTH YEAR COSTS

|                       |                                            |                |                |
|-----------------------|--------------------------------------------|----------------|----------------|
| I.                    | Personnel Costs (from Table 6)             | 537,814        |                |
|                       | + 40% Inflation                            | 215,125        |                |
|                       | + 24.5% Benefits                           | <u>184,470</u> | 937,409        |
| II.                   | Operating Expenses and Equipment           |                |                |
| A.                    | Travel 12,000 + 40%                        | 16,800         |                |
| B.                    | General Operating Expense<br>248,072 + 40% | 347,301        |                |
| C.                    | Equipment                                  | <u>7,000</u>   | <u>371,101</u> |
| TOTAL Fifth Year Cost |                                            |                | 1,308,510      |

MANUAL SYSTEM COSTS - FIRST YEAR

Man-years computed on 1825 working hours per year (S.P.B. Calculation)

Hypotheses:

110,000 complaints per year  
17 users

Functions:

1. Processing of input and follow-up documents, complaint matches, purging of closed complaints.

A. Receive and sort original documents daily.  
Intersort with existing documents.  
User files sort and entire file sort @  
1/2 minute each per document  
110,000 min. = 1,833 hrs. ÷ 1,825 = 1.00 m.y.

B. Receive and sort follow-up documents daily.  
Intersort with existing files.  
Both sorts @ 1/2 minute per document.  
110,000 min. = 1,833 hrs. ÷ 1,825 = 1.00 m.y.

C. Check for and convert to established  
respondent name.  
Cross-reference to all known names  
2 minutes per document average  
220,000 min. = 3,667 hrs. ÷ 1,825 = 2.00 m.y.

D. Locate and list agency "matches" daily.  
Send listing weekly.  
15% match factor = 16,500 matches  
per year @ 2 minutes per match.  
33,000 min. = 550 hrs. ÷ 1,825 = .30 m.y.

E. Update match listing with follow-up and  
cross-referencing @ 1/2 minute average  
per document.  
8,250 min. = 138 hrs. ÷ 1,825 = .10 m.y.

F. Type weekly match report from entire  
file, including original and follow-up  
information, using magnetic card selectric  
typewriter for updating capability.  
33,000 adds and deletes per year @ 50  
per hour.  
660 hrs. ÷ 1,825 = .35 m.y.

G. Fatigue factor, miscellaneous office and  
personal functions @ 1 hour per working day.  
4.75 man-years x 12.5% = .60 m.y.

Total Man-Years - Function # 1 5.50  
(rounded)

2. Preparation of regularly scheduled reports.

- A. Report of 5 or more complaints in 2 or more agencies against the same respondent.  
Issued monthly and composed of 10% of total file.  
Adding of new respondents @ 1 minute each per transaction  
 $11,000 \text{ min.} = 183 \div 1,825 =$  .10 m.y.
- Typing of report - magnetic card  
Additions @ 1/2 minute each per transaction  
 $5,500 \text{ min.} = 92 \text{ hrs.} \div 1,825 =$  .05 m.y.
- B. Statistical reports for user files (bi-monthly) and entire file (quarterly) including 140 categories on original and follow-up documents, with period and year-to-date comparisons.
- 1) Daily posting of categories @ 1/2 minute per document  
 $110,000 \text{ min.} = 1,833 \text{ hrs.} \div 1,825 =$  1.00 m.y.
- 2) Totaling of user (17) and entire file (1) statistics @ 2 hours each for 10 reports  
 $212 \text{ hrs.} \div 1,825 =$  .15 m.y.
- 3) Calculating percentages and preparing reports @ 6 hours per report  
 $17 \times 6 \text{ hours} \times 6 \text{ reports}$   
 $1 \times 6 \text{ hours} \times 4 \text{ reports}$   
 $636 \text{ hours} \div 1,825 =$  .35 m.y.
- 4) Typing reports @ 2 hours each  
 $17 \times 2 \text{ hours} \times 6 \text{ reports}$   
 $1 \times 2 \text{ hours} \times 4 \text{ reports}$   
 $212 \text{ hrs.} \div 1,825 =$  .10 m.y.
- C. Fatigue factor, etc.  
 $1.75 \text{ man-years} \times 12.5\% =$  .25 m.y.

Total Man-Years - Function # 2

2.00

3. Inquiries by telephone

- A. 3 per week per user, 15 per day per non-user @ 5 min. each  
 $32,760 \text{ min.} = 546 \text{ hrs.} \div 1,825 =$  .30 m.y.

B. Fatigue factor, etc.  
.30 x 12.5% =

.05 m.y.

Total Man-Years - Function # 3

.50  
(rounded)

4. Special reports

A. Entire file search, one year's activity.  
Specific product, service or general  
business activity.  
Comparison of current period to past  
period of each category on input and  
follow-up documents (140)  
Reports of 10 most complained against  
businesses prepared semi-annually  
(represents 2/3 of total complaints)

Search for documents

73,350 x 1 @ 3 per minute

73,350 x 2 @ 3 per minute

73,350 min. = 1,223 hrs. ÷ 1,825 =

.65 m.y.

Post category information

293,400 documents @ 1/2 minute each

146,700 min. = 2,445 hrs. ÷ 1,825 =

1.35 m.y.

Total categories @ 2 hours each report,  
each year

80 hrs. ÷ 1,825 =

.05 m.y.

Compile individual and total statistics.

20 reports @ 6 hours, 2 reports @ 12 hrs.

144 hrs. ÷ 1,825 =

.08 m.y.

Type reports

20 reports @ 2 hours, 2 reports @ 4 hrs.

48 hrs. ÷ 1,825 =

.02 m.y.

B. User file search, one year's activity

Same as "A"

Users will request an average of two  
reports per year

Search and post operations as in part "A"

2.00 m.y.

Total categories @ 2 hours each report,  
each year (34 reports)

136 hrs. ÷ 1,825 =

.05 m.y.

Compile individual statistics

34 reports @ 6 hrs. = 204 hrs. ÷ 1,825 =

.10 m.y.

Type reports

34 x 2 hrs. = 68 hrs. ÷ 1,825 =

.05 m.y.

C. Entire file search, one year's activity.  
 Specific problem(s) irrespective of  
 business type; i.e., contractual problems,  
 weight shortages, mail-order schemes, etc.  
 Comparison of current to prior period, all  
 categories.  
 Report of 10 most frequent problems  
 prepared semi-annually.  
 (represents 80% of total complaints due  
 to multiple category selections)

Search for documents  
 88,000 x 1 @ 3 per minute  
 88,000 x 2 @ 3 per minute  
 88,000 min. = 1,467 hrs. ÷ 1,825 = .80 m.y.

Post category information  
 352,000 documents @ 1/2 minute each  
 176,000 min. = 2,933 hrs. ÷ 1,825 = 1.60 m.y.

Total categories @ 2 hours each report,  
 each year  
 80 hrs. ÷ 1,825 = .05 m.y.

Compile individual and total statistics  
 20 reports @ 6 hours, 2 reports @ 12 hrs.  
 144 hrs. ÷ 1,825 = .08 m.y.

Type reports  
 20 reports @ 2 hours, 2 reports @ 4 hrs.  
 48 hrs. ÷ 1,825 = .02 m.y.

D. User file search, one year's activity.  
 Same as "C"  
 Users will request an average of two  
 reports per year

Search and post operations as in part "C" 2.40 m.y.

Total categories @ 2 hours each report,  
 each year (34 reports)  
 68 hrs. ÷ 1,825 = .05 m.y.

Compile individual statistics  
 34 reports @ 6 hours = 204 hrs. ÷ 1,825 = .10 m.y.

Type reports  
 34 x 2 hrs. = 68 hrs. ÷ 1,825 = .05 m.y.

E. Fatigue factor, etc.  
 9.50 man-years x 12.5% = 1.20 m.y.

Total Man-Years - Function # 4 10.50  
 (rounded)

5. Complaint tracking, trending and special alerts.  
Identification of consumer problems and development of solutions for legislative proposals, law enforcement personnel and for the Director and staff of the Department

Total Man-Years - Function # 5

4.00

6. Administrative  
Program Manager  
Secretary to Manager

Total Man-Years - Function # 6

2.00



ALLOCATION OF PERSONNEL TO SPECIFIC FUNCTIONS

Function # 1 - 5.50 Man-Years

- (1) Senior Clerk (50% supervision)
- (4) Clerk II
- (1) Clerk-Typist II

Function # 2 - 2.00 Man-Years

- (.5) Senior Clerk (100% supervision)
- (2) Clerk II

Function # 3 - .50 Man-Years

- (.5) Senior Clerk

Function # 4 - 10.50 Man-Years

- (2) Staff Services Analyst (25% supervision each)
- (2) Statistical Clerk
- (6) Clerk II
- (1) Clerk-Typist II

Function # 5 - 4.00 Man-Years

- (2) Staff Services Analyst "B" (50% supervision each)
- (2) Statistical Clerk
- (1) Clerk-Typist II

Function # 6 - 2.00 Man-Years

- (1) Staff Services Manager III
- (1) Senior Stenographer

Total Man-Years 27

MANUAL SYSTEM COSTS - ONGOING PROGRAM

Man-years computed on 1825 working hours per year (S.P.B. Calculation)

Hypotheses:

300,000 complaints per year  
75 users

Functions:

1. Processing of input and follow-up documents, complaint matches, purging of closed complaints.

- A. Receive and sort original documents daily.  
Intersort with existing documents.  
User files sort and entire file sort @  
1/2 minute each per document.  
300,000 min. = 5,000 hrs. ÷ 1,825 = 2.75 m.y.
- B. Receive and sort follow-up documents daily.  
Intersort with existing files.  
Both sorts @ 1/2 minute per document.  
300,000 min. = 5,000 hrs. ÷ 1,825 = 2.75 m.y.
- C. Check for and convert to established  
respondent name.  
Cross-reference to all known names  
2 minutes per document average  
600,000 min. = 10,000 hrs. ÷ 1,825 = 5.50 m.y.
- D. Locate and list agency "matches" daily.  
Send listing weekly.  
15% match factor = 45,000 matches  
per year @ 2 minutes per match.  
90,000 min. = 1,500 hrs. ÷ 1,825 = .80 m.y.
- E. Update match listing with follow-up and  
cross-referencing @ 1/2 minute average  
per document.  
22,500 min. = 375 hrs. ÷ 1,825 = .20 m.y.
- F. Type weekly match report from entire  
file, including original and follow-up  
information, using magnetic card selectric  
typewriter for updating capability.  
90,000 adds and deletes per year @  
50 per hour.  
1,800 hrs. ÷ 1,825 = 1.00 m.y.
- G. Monthly purge of closed complaints over  
12 months old @ 95% of one month's  
complaints.  
25,000 x 95% @ 1/2 minute each per month  
for both files = 570,000 per year x .50  
285,000 min. = 4,750 hrs. ÷ 1,825 = 2.50 m.y.

H. Fatigue factor, miscellaneous office and personal functions @ 1 hour per working day.  
15.50 man-years x 12.5% = 2.00 m.y.

Total Man-Years - Function # 1 17.50

2. Preparation of regularly scheduled reports.

A. Report of 5 or more complaints in 2 or more agencies against the same respondent. Issued monthly and composed of 10% of total file.  
Adding of new and purging of old respondents @ 1 minute each per transaction  
60,000 min. = 1,000 ÷ 1,825 = .55 m.y.

Typing of report - mag. card  
Additions and deletions @ 1/2 minute each per transaction  
30,000 min. = 500 hrs. ÷ 1,825 = .30 m.y.

B. Statistical reports for user files (bi-monthly) and entire file (quarterly) including 140 categories on original and follow-up documents, with period and year-to-date comparisons.

1) Daily posting of categories @ 1/2 minute per document  
300,000 min. = 5,000 hrs. ÷ 1,825 = 2.75 m.y.

2) Totaling of user (75) and entire file (1) statistics @ 2 hours each for 10 reports  
908 hrs. ÷ 1,825 = .50 m.y.

3) Calculating percentages and preparing reports @ 6 hours per report  
75 x 6 hours x 6 reports  
1 x 6 hours x 4 reports  
2,724 hours ÷ 1,825 = 1.50 m.y.

4) Typing reports @ 2 hours each  
75 x 2 hours x 6 reports  
1 x 2 hours x 4 reports  
908 hrs. ÷ 1,825 = .50 m.y.

C. Report of open cases, transmitted quarterly by telephone.  
All open cases older than current 12 month period  
75 telephone calls @ 30 minutes each.  
150 hrs. ÷ 1,825 = .10 m.y.

D. Fatigue factor, etc.  
6.20 man-years x 12.5% = .80 m.y.

Total Man-Years - Function # 2 7.00

3. Inquiries by telephone

A. 3 per week per user, 15 per day  
per non-user @ 5 min. each.  
78,000 min. = 1,300 hrs. ÷ 1,825 = .70 m.y.

B. Fatigue factor, etc.  
.70 x 12.5% = .10 m.y.

Total Man-Years - Function # 3 .80

4. Special reports

A. Entire file search, two year's activity.  
Specific product, service or general  
business activity.  
Comparison of current year to past  
year of each category on input and  
follow-up documents (140)  
Reports of 10 most complained against  
businesses prepared semi-annually  
(represents 2/3 of total complaints)

Search for documents  
800,000 @ 3 per minute  
266,670 min. = 4,445 hrs. ÷ 1,825 = 2.50 m.y.

Post category information  
800,000 documents @ 1/2 minute each  
400,000 min. = 6,670 hrs. ÷ 1,825 = 3.65 m.y.

Total categories @ 2 hours each  
report, each year  
80 hrs. ÷ 1,825 = .05 m.y.

Compile individual and total statistics.  
20 reports @ 6 hours, 2 reports @ 12 hrs.  
144 hrs. ÷ 1.825 = .08 m.y.

Type reports.  
20 reports @ 2 hours, 2 reports @ 4 hrs.  
48 hrs. ÷ 1,825 = .02 m.y.

B. User file search, two year's activity  
Same as "A".  
Users will request an average of two  
reports per year

Search and post operations as in part "A" 6.15 m.y.

Total categories @ 2 hours each report,  
each year (150 reports)  
600 hrs.  $\div$  1,825 = .35 m.y.

Compile individual statistics  
150 reports @ 6 hrs. = 900 hrs.  $\div$  1,825 = .50 m.y.

Type reports  
150 x 2 hrs. = 300 hrs.  $\div$  1,825 = .15 m.y.

C. Entire file search, two year's activity.  
Specific problem(s) irrespective of  
business type; i.e., contractual problems,  
weight shortages, mail-order schemes, etc.  
Comparison of current to prior year, all  
categories  
Report of 10 most frequent problems  
prepared semi-annually.  
(represents 80% of total complaints due  
to multiple category selections)

Search for documents  
960,000 @ 3 per minute  
320,000 min. = 5,335 hrs.  $\div$  1,825 = 2.90 m.y.

Post category information  
960,000 documents @ 1/2 minute each  
480,000 min. = 8,000 hrs.  $\div$  1,825 = 4.40 m.y.

Total categories @ 2 hours each report,  
each year  
80 hrs.  $\div$  1,825 = .05 m.y.

Compile individual and total statistics  
20 reports @ 6 hours, 2 reports @ 12 hrs.  
144 hrs.  $\div$  1,825 = .08 m.y.

Type reports  
20 reports @ 2 hours, 2 reports @ 4 hrs.  
48 hrs.  $\div$  1,825 = .02 m.y.

D. User file search, two year's activity.  
Same as "C".  
Users will request an average of two  
reports per year

Search and post operations as in part "C" 7.30 m.y.

Total categories @ 2 hours each report,  
each year (150 reports)  
600 hrs.  $\div$  1,825 = .35 m.y.

Compile individual statistics  
150 reports @ 6 hrs. = 900 hrs. ÷ 1,825 = .50 m.y.

Type reports  
150 x 2 hrs. = 300 hrs. ÷ 1,825 = .15 m.y.

E. Fatigue factor, etc.  
29.20 man-years x 12.5% = 3.65 m.y.

Total Man-Years - Function # 4 33.00  
(rounded)

5. Complaint tracking, trending and special alerts.  
Identification of consumer problems and development of solutions for legislative proposals, law enforcement personnel and for the Director and staff of the Department

Total Man-Years - Function # 5 7.00

6. Administrative  
Program Manager  
Administrative Assistant (Office Manager)  
Secretary to Manager  
General Clerical support

Total Man-Years - Function # 6 4.00

ALLOCATION OF PERSONNEL TO SPECIFIC FUNCTIONS

Function # 1 - 17.50 Man-Years

- (2) Senior Clerk (75% supervision each)
- (16) Clerk II
- (1) Clerk-Typist II

Function # 2 - 7.00 Man-Years

- (1) Senior Clerk (100% supervision)
- (6) Clerk II
- (1) Clerk-Typist II

Function # 3 - .80 Man-Years

- (1) Senior Clerk

Function # 4 - 33.00 Man-Years

- (5) Staff Services Analyst (40% supervision each)
- (5) Statistical Clerk
- (24) Clerk II
- (1) Clerk-Typist II

Function # 5 - 7.00 Man-Years

- (2) Staff Services Analyst "B" (50% supervision each)
- (5) Statistical Clerk
- (1) Clerk-Typist II

Function # 6 - 4.00 Man-Years

- (1) Staff Services Manager III
- (1) Administrative Assistant II
- (1) Senior Stenographer
- (1) Clerk-Typist II

Total Man-Years 75

MANUAL SYSTEM COSTS

EXPENDITURES (1977 dollars)

| Personal Services (bottom step)                                    | No. | First Year       | No. | Ongoing            |
|--------------------------------------------------------------------|-----|------------------|-----|--------------------|
|                                                                    |     | Dollars          |     | Dollars            |
| Staff Services Manager III @ \$1,916                               | 1   | \$ 22,992        | 1   | \$ 22,992          |
| Administrative Assistant II @ \$1,447                              | 0   | - - -            | 1   | 17,364             |
| Staff Services Analyst @ \$919 & 1,003                             | 4   | 46,128           | 7   | 82,236             |
| Senior Stenographer @ \$823                                        | 1   | 9,876            | 1   | 9,876              |
| Statistical Clerk @ \$804                                          | 4   | 38,592           | 10  | 96,480             |
| Senior Clerk @ \$804                                               | 2   | 19,296           | 4   | 38,592             |
| Clerk-Typist II @ \$675                                            | 3   | 24,300           | 5   | 40,500             |
| Clerk II @ \$675                                                   | 12  | 97,200           | 46  | 372,600            |
| Staff Benefits @ 24.5%                                             |     | 63,304           |     | 166,757            |
| Total Personal Services                                            | 27  | <u>\$321,688</u> | 75  | <u>\$847,397</u>   |
| Operating Expenses and Equipment                                   |     |                  |     |                    |
| General Expense                                                    |     | 23,015           |     | 51,113             |
| Printing and Postage                                               |     | 12,000           |     | 30,500             |
| Communications (Incl. W.A.T.S. line)                               |     | 23,000           |     | 35,000             |
| Travel                                                             |     | 12,000           |     | 12,000             |
| Rent (\$650 per + 40% files & storage)                             |     | 25,600           |     | 68,250             |
| Copywork                                                           |     | 10,550           |     | 24,500             |
| Administrative, Statewide and<br>General Services Pro-rata @ 8% 5% |     | 35,347           |     | 87,180             |
| Equipment (Amortized)                                              |     | 8,000            |     | 15,000             |
| Total Oper. Exp. and Equip.                                        |     | <u>\$149,512</u> |     | <u>\$323,543</u>   |
| Total Costs                                                        |     | <u>\$471,200</u> |     | <u>\$1,170,940</u> |

NOTE: Ongoing Costs represent the costs after full implementation (300,000 complaints per year) is achieved. The projected fifth year costs of the manual system are working toward these costs, as the estimated fifth year volume is less than full implementation.



ALTERNATIVE FOUR - NEW AUTOMATED SYSTEM (Con't.)

|      |                                            |         |                |
|------|--------------------------------------------|---------|----------------|
| II.  | Operating Expenses and Equipment           |         |                |
| A.   | Travel 12,000 + 20%                        | 14,400  |                |
| B.   | General Operating Expense<br>40,900 + 20%  | 49,080  |                |
| C.   | Equipment 1600 + 20%                       | 1,920   |                |
| D.   | Microfiche Readers (12) 2,400 + 20%        | 2,880   |                |
| E.   | Microfiche Reader/Printers (2) 4,000 + 20% | 4,800   | <u>73,080</u>  |
| III. | Computer Related Costs                     |         |                |
| A.   | Computer                                   | 35,510  |                |
| B.   | Data Entry                                 | 106,847 |                |
| C.   | Microfiche                                 | 1,744   | <u>144,101</u> |
|      | TOTAL THIRD YEAR COSTS                     |         | <u>342,119</u> |

FOURTH YEAR COSTS

|      |                                                               |         |                |
|------|---------------------------------------------------------------|---------|----------------|
| I.   | Personnel (from Table 6)                                      | 94,655  |                |
|      | + 30% Inflation                                               | 28,396  |                |
|      | + 24.5% Benefits                                              | 30,148  | <u>153,199</u> |
| II.  | Operating Expenses and Equipment                              |         |                |
| A.   | Travel 12,000 + 30%                                           | 15,600  |                |
| B.   | General Operating Expense<br>45,400 + 30%                     | 59,020  |                |
| C.   | Equipment 2600 + 30% (1600 + 1000 for additional<br>position) | 3,380   |                |
| D.   | Microfiche Readers (12)                                       | 3,120   |                |
| E.   | Microfiche Reader/Printers (2) 4,000 + 30%                    | 5,200   | <u>86,320</u>  |
| III. | Computer Related Costs                                        |         |                |
| A.   | Computer                                                      | 44,467  |                |
| B.   | Data Entry                                                    | 136,947 |                |
| C.   | Microfiche                                                    | 2,057   | <u>183,471</u> |
|      | TOTAL FOURTH YEAR COSTS                                       |         | <u>422,990</u> |

ALTERNATIVE FOUR - NEW AUTOMATED SYSTEM (Con't.)

FIFTH YEAR COSTS

|      |                                               |               |                |
|------|-----------------------------------------------|---------------|----------------|
| I.   | Personnel (from Table 6)                      | 94,655        |                |
|      | + 40% Inflation                               | 37,862        |                |
|      | + 24.5% Benefits                              | <u>32,466</u> | <u>164,983</u> |
| II.  | Operating Expenses and Equipment              |               |                |
|      | A. Travel 12,000 + 40%                        | 16,800        |                |
|      | B. General Operating Expenses<br>49,900 + 40% | 69,860        |                |
|      | C. Equipment 2600 + 40%                       | 3,640         |                |
|      | D. Microfiche Readers (12) 2,400 + 40%        | 3,360         |                |
|      | E. Microfiche Reader/Printers (2) 4,000 + 40% | <u>5,600</u>  | <u>99,260</u>  |
| III. | Computer Related Costs                        |               |                |
|      | A. Computer                                   | 53,490        |                |
|      | B. Data Entry                                 | 173,204       |                |
|      | C. Microfiche                                 | <u>2,411</u>  | <u>229,105</u> |
|      | TOTAL FIFTH YEAR COSTS                        |               | <u>493,348</u> |

Alternative Four - New Automated System  
Computer Related Costs - Breakdown

(Implemented at Teale Data Center)

|                                             | <u>UNITS</u> | <u>COST</u> | <u>TOTAL</u> |
|---------------------------------------------|--------------|-------------|--------------|
| I. First Year Costs                         |              |             |              |
| A. Development (5 months)                   |              |             |              |
| 1. Computer                                 |              |             |              |
| a. Teale Data Center                        | -            | 4,770       |              |
| b. Data 100 Initiation Charge               | 595          | 2,975       | 7,745        |
| 2. Data Entry                               |              |             |              |
| a. Programs and Test Data                   | 340          | 3,740       |              |
| b. File Creation - 6 months<br>history data | 2,422        | 26,639      | 30,379       |
|                                             |              |             | <hr/>        |
| Total Development                           |              |             | 38,124       |
| B. Production (7 months - pilot)            |              |             |              |
| 1. Computer                                 |              |             |              |
| a. Teale Data Center                        | -            | 25,368      |              |
| b. Data 100 Initiation Charge               | 315          | 1,575       |              |
| c. Terminal Rental                          | 1            | 1,925       | 28,868       |
| 2. Data Entry                               | 2,753        | 30,283      | 30,283       |
|                                             |              |             | <hr/>        |
| Total Production                            |              |             | 59,151       |
| Total First Year Cost                       |              |             | 97,275       |
| II. Second Year Costs                       |              |             |              |
| A. Computer                                 |              |             |              |
| 1. Teale Data Center                        | -            | 64,932      |              |
| 2. Data 100 Initiation Charge               | 315          | 1,733       |              |
| 3. Terminal Rental                          | 1            | 3,600       | 70,265       |
| B. Data Entry                               | 6,690        | 81,916      | 81,916       |
|                                             |              |             | <hr/>        |
| Total Second Year Cost                      |              |             | 152,181      |
| III. Third Year Costs                       |              |             |              |
| A. Computer                                 |              |             |              |
| 1. Teale Data Center                        | -            | 88,776      |              |

|                                | <u>UNITS</u> | <u>COST</u> | <u>TOTAL</u>   |
|--------------------------------|--------------|-------------|----------------|
| III. Third Year Costs (Con't.) |              |             |                |
| 2. Data 100 Initiation Charge  | 315          | 1,890       |                |
| 3. Terminal Rental             | 1            | 3,960       | 94,626         |
| B. Data Entry                  | 8,064        | 106,847     | <u>106,847</u> |
| Total Third Year Cost          |              |             | 201,473        |
| IV. Fourth Year Costs          |              |             |                |
| A. Computer                    |              |             |                |
| 1. Teale Data Center           | -            | 111,168     |                |
| 2. Data 100 Initiation Charge  | 315          | 2,048       |                |
| 3. Terminal Rental             | 1            | 4,320       | 117,536        |
| B. Data Entry                  | 9,445        | 136,947     | <u>136,947</u> |
| Total Fourth Year Cost         |              |             | 254,483        |
| V. Fifth Year Costs            |              |             |                |
| A. Computer                    |              |             |                |
| 1. Teale Data Center           | -            | 133,716     |                |
| 2. Data 100 Initiation Charge  | 315          | 2,205       |                |
| 3. Terminal Rental             | 1            | 4,800       | 140,721        |
| B. Data Entry                  | 10,825       | 173,204     | <u>173,204</u> |
| Total Fifth Year Cost          |              |             | 313,925        |

Alternative Four - New Automated System

Computer Related Costs - Breakdown

(Implemented at Franchise Tax Board)

|                                             | <u>UNITS</u>           | <u>COST</u> | <u>TOTAL</u> |
|---------------------------------------------|------------------------|-------------|--------------|
| I. First Year Costs                         |                        |             |              |
| A. Development (5 months)                   |                        |             |              |
| 1. Computer                                 | -                      | 2,100       | 2,100        |
| 2. Data Entry                               |                        |             |              |
| a. Programs and Test Data                   | 340                    | 3,740       |              |
| b. File Creation - 6 months<br>history data | 2,422                  | 26,639      | 30,379       |
|                                             |                        |             | <hr/>        |
|                                             | Total Development      |             | 32,487       |
| B. Production                               |                        |             |              |
| 1. Computer                                 | -                      | 10,150      | 10,150       |
| 2. Data Entry                               | 2,753                  | 30,283      | 30,283       |
|                                             |                        |             | <hr/>        |
|                                             | Total Production       |             | 40,433       |
|                                             | Total First Year Cost  |             | 72,720       |
| II. Second Year Costs                       |                        |             |              |
| A. Computer                                 | -                      | 25,980      |              |
| B. Data Entry                               | 6,690                  | 81,916      |              |
|                                             | Total Second Year Cost |             | 107,896      |
| III. Third Year Costs                       |                        |             |              |
| A. Computer                                 | -                      | 35,510      |              |
| B. Data Entry                               | 8,064                  | 106,847     |              |
|                                             | Total Third Year Cost  |             | 142,357      |
| IV. Fourth Year Costs                       |                        |             |              |
| A. Computer                                 | -                      | 44,467      |              |
| B. Data Entry                               | 9,445                  | 136,947     |              |
|                                             | Total Fourth Year Cost |             | 181,414      |
| V. Fifth Year Costs                         |                        |             |              |
| A. Computer                                 | -                      | 53,490      |              |
| B. Data Entry                               | 10,825                 | 173,204     |              |
|                                             | Total Fifth Year Cost  |             | 226,694      |

Developmental Cost  
System Design and Programs

| Description                                     | Programming<br>(Hours) | Analysis<br>(Hours) |
|-------------------------------------------------|------------------------|---------------------|
| A. Preliminary Analysis                         |                        | 260                 |
| B. Programs                                     |                        |                     |
| 1. Complaint Edit #1                            | 160                    | 40                  |
| 2. Complaint Edit #2                            | 140                    | 30                  |
| 3. Complaint Update                             | 140                    | 30                  |
| 4. Report 1 (5-or-More)                         | 200                    | 30                  |
| 5. Report 2 (Complaint Listing)                 | 200                    | 40                  |
| 6. Report 3A (Statistics by Agency)             | 250                    | 70                  |
| 7. Report 3B (Statistics by County)             | 40                     | 10                  |
| 8. Report 3C (Statistics - Special<br>Grouping) | 60                     | 20                  |
| 9. Report 4 (Select #1)                         | 120                    | 20                  |
| 10. Report 5 (4 Misc. Reports)                  | 160                    | 30                  |
| 11. Report 6 (Select #2)                        | 120                    | 40                  |
| 12. Report 7 (4 Special Reports)                | 150                    | 30                  |
| 13. Cross-Reference Edit & Update               | 240                    | 40                  |
| 14. Cross-Reference Report                      | 160                    | 30                  |
| 15. Transient Crew Edit & Update                | 200                    | 40                  |
| 16. Transient Crew Report                       | 160                    | 30                  |
| 17. Error Listing                               | 40                     | 10                  |
| TOTALS                                          | 2540                   | 800                 |

# Computer Costs

## First Year - Development

(per program, based on 1976-'77 Teale Rates + 10%)

25 compiles @ 5.00 = \$125

20 test runs:

2 tape mounts @ 1.30 = 2.60

printing 3.00

C.P.U. .90

20 x 6.50 = 130  
\$255

10% increase in rates 25.50

\$280.50

Data 100: 35 x 5.00 175.00

455.50

17 programs x 17

\$7743.50

COMPUTER COSTS - BREAKDOWN  
Per Month, Pilot Period

A. Jobs (scheduled):

|    |                                                                                                                                                                                     |            |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1. | Complaint Edit - 20 times/month<br>(9300 complaints/month = 465 complaints x 20 times)<br>\$40 each run                                                                             | \$800      |
| 2. | Complaint Listing - Microfiche - 4 times/month<br>4 complaints per page = 28,000 pages/month<br><br>+ 25% who get weekly = 28,000 complaints =<br>7000 pages/week<br>\$.75 each run | 300        |
| 3. | Monthly Reports                                                                                                                                                                     |            |
| a. | 5-or-more (assume 15% of respondents have 5-or-more<br>complaints) = 16,800 complaints or 21,000 lines<br>\$35 each run                                                             | 35         |
| b. | Statistics - Agency & County (2 runs)<br><br>15 pages and 40 lines = 600 lines each<br>\$50 each                                                                                    | 100        |
| c. | Selected Reports (Complaints Against County Respondents)<br>All counties printed 220,000 lines<br>(at least 2 lines each) 7350 pages = \$210<br><u>30</u>                           | 240        |
| 4. | Name Cross-Reference - 20 times/month, print weekly<br><br>\$20 each run + \$75 to print Cross-Reference                                                                            | 700        |
| 5. | Transient Crew Report - Monthly<br>\$20 + \$20 printing                                                                                                                             | 40         |
| 6. | On-Demand Reports                                                                                                                                                                   | 200        |
| 7. | Quarterly Reports                                                                                                                                                                   |            |
| a. | Open cases (50%) = 55,000 lines = \$ 55                                                                                                                                             | } = 95 ÷ 3 |
| b. | Consent and Judgement orders = \$ 20                                                                                                                                                |            |
|    | + \$20 to run job \$ 20                                                                                                                                                             |            |
|    |                                                                                                                                                                                     | \$2,445    |
|    | 10% Error Factor                                                                                                                                                                    | 244        |
|    | TOTAL                                                                                                                                                                               | \$2,689    |



8. Additional Computer Charges:

|                                     |                  |       |
|-------------------------------------|------------------|-------|
| a. Testing new or modified programs |                  | \$200 |
| b. Terminal transaction charges     |                  | 200   |
|                                     |                  | <hr/> |
|                                     |                  | 400   |
|                                     | 10% Error Factor | 40    |
|                                     |                  | <hr/> |
|                                     | TOTAL            | \$440 |

c. Data Storage

|                                      |                  |       |
|--------------------------------------|------------------|-------|
| 40 tapes/month (average) @ 1.30 each | \$52             |       |
| 3375 tracks (complaint file)         | 338              |       |
| 600 tracks (miscellaneous)           | 60               | 450   |
|                                      |                  | <hr/> |
|                                      | 10% Error Factor | 45    |
|                                      | TOTAL            | \$495 |

GRAND TOTAL \$3,624

B. Data 100:

31 + 4 = 35 Regular jobs

10 Special jobs = 45 x 5.00 \$225

C. Terminal Rental (per month, approximately) \$275

Data Entry Costs

First Year

112,000 complaints per year  
6 month history and 6 month current during pilot  
56,000 each (6000 strokes/hour, \$11.00/hour)

| <u>HISTORY</u> (6 months)  |                   | <u>STROKES</u> | <u>HOURS</u> | <u>COST</u> |
|----------------------------|-------------------|----------------|--------------|-------------|
| Initial Document           | 56,000 x 148 =    | 8,288,000      | 1381         | 15,195      |
| Follow-up (20%)            | 11,200 x 20 1/2 = | 229,600        | 39           | 421         |
| Verify (8500 strokes/hour) |                   | 8,517,600      | 1002         | 11,023      |
| <u>NORMAL</u> (6 months)   |                   |                | 2422         | 26,639      |
| Initial Document           | 56,000 x 155 =    | 8,680,000      | 1447         | 15,917      |
| Follow-up (25%)            | 14,000 x 27 1/2 = | 385,000        | 64           | 704         |
| Verify (8500strokes/hour)  |                   | 9,065,000      | 1067         | 11,737      |
|                            |                   |                | 2578         | 28,358      |
|                            |                   |                | ÷ 6          | ÷ 6         |
|                            |                   |                | 430          | 4,725       |

Data Entry for Programs:

17 programs @ 20 hours each = 340 hours = \$3740  
(Development)

Production: Additional 25 hours/month  
JCL, program changes, etc.

7 months = 175 hours = \$1,925

DATA ENTRY AND COMPUTER COSTS

Second Year 140,000 Complaints/Year  
 (Increase of 25% from 1st Year)

Estimated Rates:

Data Entry 12.25  
 Data 100 5.50

Data Entry

|                                                                | <u>Strokes</u> | <u>Hours</u> | <u>Cost</u>   |
|----------------------------------------------------------------|----------------|--------------|---------------|
| Initial Document 140,000 x 155                                 | 21,700,000     | 3,620        | 44,304        |
| Follow-Up (25%) 35,000 x 27.5                                  | 962,500        | 160          | 1,965         |
| Verify                                                         | 22,662,500     | <u>2,670</u> | <u>32,707</u> |
|                                                                |                | 6,450        | 78,976        |
| 20 hours per month to key program<br>changes and miscellaneous |                | 240          | 2,940         |
|                                                                |                | -----        | -----         |
|                                                                |                | 6,690        | 81,916        |

Computer

|                                                            |                    |
|------------------------------------------------------------|--------------------|
| Same jobs, 25% increase of 2689 = 3361 + 10% rate increase | 3,700              |
| Data Storage, 25% increase of 495 = 620                    |                    |
| + previous year complaints <u>495</u>                      |                    |
| 1115 + 10% rate increase =                                 | 1,226              |
| Testing and Transaction charges 440 + 10% rate increase =  | <u>485</u>         |
|                                                            | 5,411              |
|                                                            | <u>X 12 months</u> |
|                                                            | 64,932             |

DATA ENTRY AND COMPUTER COSTS

Third Year 170,000 Complaints/Year  
(Increase of 20% from 2nd Year)

Estimated Rates:

Data Entry 13.25  
Data 100 6.00

Data Entry

|                                                     | <u>Strokes</u> | <u>Hours</u> | <u>Cost</u>    |
|-----------------------------------------------------|----------------|--------------|----------------|
| Initial Document 170,000 x 155                      | 26,350,000     | 4,392        | 58,190         |
| Follow-Up (25%) 42,500 x 27.5                       | 1,168,750      | 195          | 2,580          |
| Verify                                              | 27,518,750     | <u>3,237</u> | <u>42,897</u>  |
|                                                     |                | 7,824        | 103,667        |
| 20 hours per month to key program changes and misc. |                | 240          | 3,180          |
|                                                     |                | <u>8,064</u> | <u>106,847</u> |

Computer

|                                                            |                     |
|------------------------------------------------------------|---------------------|
| Same Jobs, 15% increase of 3361 = 3865 + 20% rate increase | 4,640               |
| Data Storage, 20% increase of 620 = 744                    |                     |
| + previous 2 years complaints <u>1115</u>                  |                     |
| 1859 + 20% rate increase                                   | 2,230               |
| Testing and Transaction charges, 440 + 20% rate increase = | <u>528</u>          |
|                                                            | 7,398               |
|                                                            | <u>X 12 months.</u> |
|                                                            | 88,776              |

DATA ENTRY AND COMPUTER COSTS

Fourth Year 200,000 Complaints/Year  
(Increase of 18% from 3rd Year)

Estimated Rates:

Data Entry 14.50  
Data 100 6.50

Data Entry

|                                                        | <u>Strokes</u> | <u>Hours</u> | <u>Cost</u>    |
|--------------------------------------------------------|----------------|--------------|----------------|
| Initial Document 200,000 x 155                         | 31,000,000     | 5,167        | 74,916         |
| Follow-Up (25%) 50,000 x 27.5                          | 1,375,000      | 230          | 3,323          |
| Verify                                                 | 32,375,000     | <u>3,808</u> | <u>55,228</u>  |
|                                                        |                | 9,205        | 133,467        |
| 20 hours per month to key program<br>changes and misc. |                | 240          | 3,480          |
|                                                        |                | <u>9,445</u> | <u>136,947</u> |

Computer

|                                                            |                              |             |
|------------------------------------------------------------|------------------------------|-------------|
| Same jobs, 15% increase of 3865                            | = 4444 + 30% rate increase = | 5,778       |
| Data Storage, 18% increase of 744                          | = 878                        |             |
| + prev. 2 years complaints                                 | <u>1364</u>                  |             |
|                                                            | 2242 = 30% rate increase =   | 2,914       |
| Testing and Transaction charges, 440 + 30% rate increase = |                              | <u>572</u>  |
|                                                            |                              | 9,264       |
|                                                            |                              | <u>X 12</u> |
|                                                            |                              | 111,168     |

DATA ENTRY AND COMPUTER COSTS

Fifth Year 230,000 Complaints/Year  
(Increase of 15% from 4th year)

Estimated Rates:

Data Entry 16.00  
Data 100 7.00

Data Entry

|                                                        | <u>Strokes</u> | <u>Hours</u>  | <u>Cost</u>    |
|--------------------------------------------------------|----------------|---------------|----------------|
| Initial Document 230,000 x 1.55                        | 35,650,000     | 5,942         | 95,066         |
| Follow-Up (25%) 57,500 x 27.5                          | 1,581,250      | 263           | 4,216          |
| Verify                                                 | 37,231,250     | <u>4,380</u>  | <u>70,082</u>  |
|                                                        |                | 10,585        | 169,364        |
| 20 hours per month to key program<br>changes and misc. |                | 240           | 3,840          |
|                                                        |                | <u>10,825</u> | <u>173,204</u> |

Computer

|                                     |                            |               |
|-------------------------------------|----------------------------|---------------|
| Same Jobs, 10% increase of 4444 =   | 4888 + 40% rate increase = | 6,843         |
| Data Storage, 15% increase of 878 = | 1010                       |               |
| + prev. 2 years complaints          | <u>1622</u>                |               |
| Testing and Transaction Charges     | 2632 + 40% rate increase = | 3,684         |
|                                     | 440 + 40% rate increase =  | 616           |
|                                     |                            | <u>11,143</u> |
|                                     |                            | X 12 months   |
|                                     |                            | 133,716       |

Consideration of Optical Scanning as a  
Data Entry Alternative

In response to a request from the Department of Finance, we investigated the use of optical scanning as an alternative to key data entry.

Most optical scanners cannot read handwritten alphabetical data. The data must be retyped using a special character font. As a considerable amount of alphanumeric data is collected by this system, retyping of each complaint submitted would be required. The number of hours spent retyping complaints would be approximately equal to the number of hours spent keying the complaints for standard data entry. A savings could be realized as the retyping could be done by Department of Consumer Affairs staff, rather than by an outside contractor.

We have, however, been unable to obtain costs for reading the documents once they have been retyped. Franchise Tax Board currently has a small, in-house op-scan application, but they do not have cost figures or error rate estimates. The Employment Development Department has some op-scan equipment, but weren't sure they could handle our workload, as they are near full capacity. In addition, using their facility would provide the program with additional document control and security problems beyond those already existing. The only service center (private vendor) we could find on short notice who could do the work is in San Diego, and shipping documents to San Diego would not be feasible.

As there currently is a lack of equipment, and cost and reliability estimates for existing equipment are not available, we feel that this is not a viable alternative at this time. However, Franchise Tax Board is currently establishing cost figures and plans to solicit for optical-scanning contract work in the future. At that point we will reevaluate our data entry methods to see if optical scanning could be used.

ALTERNATIVE FOUR -- NEW AUTOMATED SYSTEM  
MICROFILM COSTS--BREAKDOWN

I. First Year

112,000 complaints, 17 users

- |   |                                   |   |
|---|-----------------------------------|---|
| { | A. Complaints listing (14/page)   | } |
| { | B. 5 or more (15%), (5 resp/page) | } |

A. 28,000 pages = 105 fiche + 17 = 122  
 $\$246 + 17 = 263/\text{run}$  -- entire file  
 + 25% weekly = 263/mo.

\$ 526

B. 672 pages = 3 fiche  
 .04 orig + 3.78 = \$10

10  
\$ 536

II. Second Year

125,000 new complaints + 112,000 previous 2 yr.  
 = 237,000 complaints, 22 users

A. 59,250 pages = 220 fiche + 22 = 242  
 $\$488 + 34 = \$522/\text{run}$   
 + 25% weekly = 522/mo

\$1,044

B. 1422 pages = 6 fiche  
 $\$12 + 10 = \$22$

22  
\$1,066

III. Third Year

150,000 new complaints + 237,000 previous 2 years  
 = 387,000 complaints, 35 users

A. 96,750 pages = 360 fiche + 35 = 395  
 $\$797 + 55 = \$852/\text{mo}$   
 + 25% weekly = 852

\$1,704

B. 2,322 pages = 9 fiche  
 $18 + 22 = 40$

40  
\$1,744

IV. Fourth Year

175,000 new complaints + 275,000 previous 2 years  
 = 450,000 complaints, 45 users

A. 112,500 pages = 419 fiche + 45 = 464  
 $\$935 + 65 = 1000/\text{mo}$   
 + 25% weekly 1000/mo

\$2,000

B. 2,700 pages = 11 fiche  
 $\$22 + 35 = 57$

57  
\$2,057



V. Fifth Year

200,000 new complaints + 325,000 previous 2 years  
= 525,000 complaints, 55 users

A. 131,250 pages = 488 fiche + 55 = 543  
\$1094 + 76 = 1170 x 2 =

\$2,340

B. 3,150 pages = 12 fiche  
\$24 x 47 = 71

71  
\$2,411

NOTE: Zytron Corporation will lease microfiche reader/printers for \$95 per month. At this price they would pay for themselves in 22 months. As the Federal Grant is available for 3 years, it would be more economical to purchase the readers outright for approximately \$2000 each. If necessary, the reader/printers could be sold at the end of the grant period, in order to recover some of the original expense.

LOCATION OF MICROFICHE READERS AND READER/PRINTERS

FIRST YEAR

|                                                | Readers | Reader/Printers |
|------------------------------------------------|---------|-----------------|
| <u>District Attorneys</u>                      |         |                 |
| Alameda                                        | 1       |                 |
| Contra Costa                                   | 1       |                 |
| Los Angeles                                    | 1       |                 |
| Sacramento                                     | 1       |                 |
| San Diego                                      | 1       |                 |
| San Mateo                                      | 1       |                 |
| Santa Clara                                    | 1       |                 |
| <u>County Consumer Protection Agencies</u>     |         |                 |
| Los Angeles                                    | 1       | 1               |
| Orange                                         | 1       |                 |
| Sacramento                                     | 1       |                 |
| San Francisco                                  | 2       |                 |
| Santa Cruz                                     | 1       |                 |
| <u>Consumer Affairs - Boards &amp; Bureaus</u> |         |                 |
| Auto Repair                                    | 2       | 1               |
| Contractors                                    | 1       | 1               |
| Funeral Directors                              | 1       |                 |
| Repair Services                                | 1       |                 |
| <u>Attorney General</u>                        | 1       | 1               |
| <u>Consumer Affairs - Program Office</u>       | 1       | 1               |
|                                                | <hr/>   | <hr/>           |
| TOTAL                                          | 20      | 5               |

GENERAL OPERATING EXPENSE - DETAIL

FIRST YEAR

|                 |               |
|-----------------|---------------|
| General Expense | \$ 5,618      |
| Printing        | 3,767         |
| Postage         | 5,680         |
| Telephone       | 4,550         |
| Rent            | 6,870         |
| Pro-rata        | <u>10,415</u> |
| TOTAL           | \$36,900      |

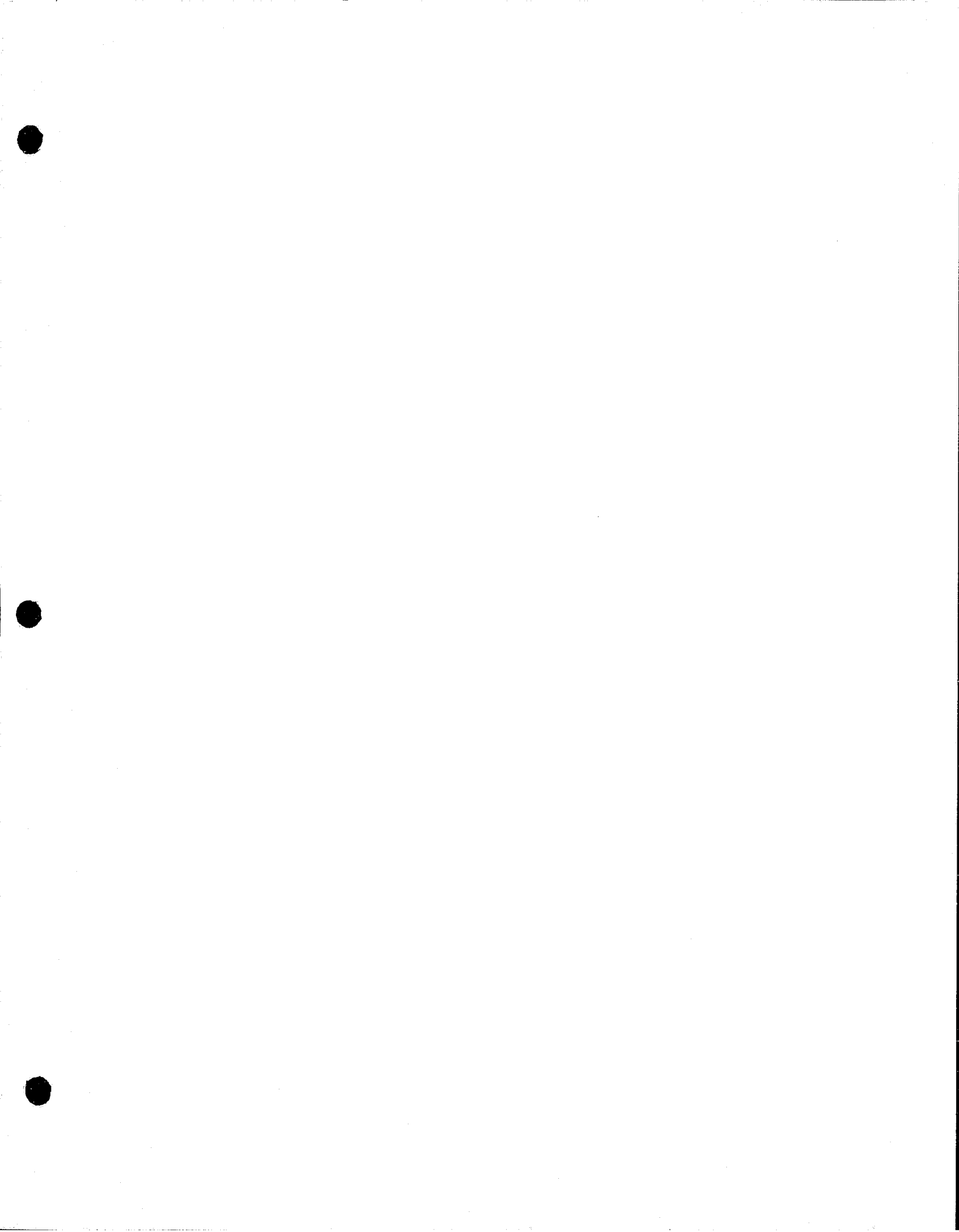
Estimate-Franchise Computer Costs

|                  | <u>Cost at Franchise</u> | =                               |
|------------------|--------------------------|---------------------------------|
|                  | <u>Cost at Teale</u>     |                                 |
| CPU              | .40                      |                                 |
| Selector Channel | .11                      |                                 |
| Core             | .23                      |                                 |
| Disk Usage       | .24                      |                                 |
| Tape Usage       | .42                      |                                 |
| Printing         | .56                      |                                 |
| *Cards Read      | 1.55                     |                                 |
| *Cards Punched   | 4.24                     |                                 |
| Disk Storage     | .43                      |                                 |
| *Controls        | .82                      |                                 |
|                  | <u>          </u>        | overall, excluding (*) is about |
|                  |                          | .4                              |

Note: CPU:  $\frac{\text{CPU cycles/sec at Teale}}{\text{CPU cycles/sec at Franchise}} = \frac{.18}{.115} = 1.5$

CPU Cost ratio = .26

$1.5 \times .26 = .4$



APPENDIX G

Rate Schedules

DEPARTMENT OF GENERAL SERVICES  
DATA PROCESSING SERVICES OFFICE (DPSO)

RATE SCHEDULE F.Y. 1977/78

| <u>Classification</u>                      | <u>F.Y. 1976/77</u>    | <u>F.Y. 1977/78</u> |
|--------------------------------------------|------------------------|---------------------|
| <b>A. <u>*Programming and Analysis</u></b> |                        |                     |
| Student Programmer                         | \$12.00 hr.            | \$13.20 hr.         |
| Programmer A, B & C                        | \$18.50 hr.            | \$20.75 hr.         |
| Associate Data Processing Analyst          | \$19.75 hr.            | \$22.25 hr.         |
| Staff Data Processing Analyst              | \$22.50 hr.            | \$24.00 hr.         |
| Senior Data Processing Analyst             | \$24.00 hr.            | \$25.00 hr.         |
| Research Writer                            | \$19.75 hr.            | \$22.25 hr.         |
| <b>B. <u>Key Data Entry</u></b>            |                        |                     |
| Key Punch                                  | **\$10.00 hr.          | \$11.00 hr.         |
| Verify                                     | **\$10.00 hr.          | \$11.00 hr.         |
| <b>C. <u>Job Submission</u></b>            |                        |                     |
| Data Guidance hourly rate                  | \$13.00 hr.            | \$14.50 hr.         |
| Job Submission Charge                      | \$ 4.50 per job        | \$ 5.00 per job     |
| Data Processing Technician Supervisor II   | \$19.75 hr.            | \$22.25 hr.         |
| R.J.P. Common                              | \$ .26 per M           |                     |
| Tape Library Charge                        | \$ 1.30 per tape/month |                     |
| <b>D. <u>Miscellaneous</u></b>             |                        |                     |
| Clerical                                   | \$ 8.25 hr.            | \$ 9.50 hr.         |

\* Long term personnel assignments, 6-12 months, for full-time analyst and programmers are available at a 10% discount. Contact DPSO for details.

\*\* A unit rate for data entry can be negotiated in place of the hourly rate given.

FY-76/77 BILLING RATES

As Of:

JULY 1, 1976

| <u>COST CENTER</u>                                 | <u>UNIT OF MEASUREMENT</u>               | <u>PRIME SHIFT RATE</u>           |
|----------------------------------------------------|------------------------------------------|-----------------------------------|
| 00 CPU                                             | INTERNAL CLOCK TIME                      | (A) \$1,364.00/HOUR               |
| 01 BLOCK MULTIPLEXOR/<br>SELECTOR CHANNEL          | DATA TRANSFER TIME                       | (A) \$ 225.00/HOUR                |
| 02 CORE                                            | OCCUPANCY TIME PER<br>1000 BYTES OF CORE | (A) \$ .66/HOUR                   |
| 03 DISK USAGE                                      | OCCUPANCY TIME                           | (A) \$ 52.00/HOUR                 |
| 04 DISK STORAGE                                    | TRACKS                                   | (c) \$ .10/TRACK                  |
| 05 DISK MOUNTS                                     | MOUNTS                                   | (A) \$ 1.20/MOUNT                 |
| 06 TAPE USAGE                                      | OCCUPANCY TIME                           | (A) \$ 46.00/HOUR                 |
| 07 TAPE MOUNTS                                     | MOUNTS                                   | (A) \$ 1.20/MOUNT                 |
| 08 PRINTER                                         | LINES PRINTED                            | (c) \$ .95/1000 LINES             |
| 10 TSO COMMON                                      | CONNECT TIME                             | (A) \$ 21.00/HOUR                 |
| 11 CICS COMMON                                     | TRANSACTIONS                             | (c) SEE FOOTNOTE (B)              |
| 12 RJP COMMON                                      | INPUT/OUTPUT                             | (c) \$ .26/1000 I/O's             |
| 13 ADABAS                                          | FLAT CHARGE TO AFFECTED<br>USERS         |                                   |
| 14 ATMS                                            | CONNECT HOURS/PSR's                      | (c) \$ 5.00/HOUR AND<br>\$.03/PSR |
| 17 TAPE LIBRARY                                    | TAPES STORED                             | (c) \$ 1.30/TAPE                  |
| 20 READER/PUNCH                                    | CARDS READ/PUNCHED                       | (c) \$ 3.90/1000 CARDS            |
| 21 BURSTING/DECOLLATING                            | WALL CLOCK TIME                          | (c,d) \$ 15.00/HOUR               |
| 22 PICKUP/DELIVERY                                 | MONTHLY SCHEDULED DROPS                  | (c) \$ 2.60/DROP                  |
| 23 PLOTTER                                         | WALL CLOCK TIME                          | (c,d) \$ 26.00/HOUR               |
| STORAGE OF USER SUPPLIED<br>TAPES                  | TAPES                                    | (c) \$ 2.60/TAPE                  |
| TAPE EVALUATION/CLEANING<br>OF USER SUPPLIED TAPES | TAPES                                    | (c) \$ 1.00/TAPE                  |
| TAPE PURCHASE                                      | TAPES                                    | (c) \$ 22.00/TAPE                 |
| OFF-SITE TAPE STORAGE                              | TAPES                                    | (c) \$ .50/TAPE                   |
| CONSULTING SERVICES                                | HOURS                                    | (c) \$ 21.00/HOUR                 |
| MINIMUM JOB                                        | JOBS                                     | \$ .50/JOB                        |

(A) THE OFF-SHIFT RATE WILL BE AT A 35% DISCOUNT FROM THE PRIME SHIFT RATE. THE OFF-SHIFT IS AFTER 5:30 P.M. AND BEFORE 7:00 A.M., MONDAY THRU FRIDAY AND ALL DAY ON WEEKENDS AND STATE HOLIDAYS NOT DESIGNATED AS REGULARLY SCHEDULED WORK-DAYS BY IDC.

(B) TOTAL CICS CHARGES WILL BE COMPUTED BY TRANSACTION USING THE FOLLOWING FORMULA:  
\$.0364 Fixed Costs + (\$.0966)(CPU) + (\$.0016)(I/O CALLS) + (\$.0018)(K CORE)

(C) DISCOUNT RATES NOT APPLICABLE.

(D) MINIMUM CHARGE, ONE HALF HOUR.

NOTES:

THE ABOVE RATES ARE FOR FY 76/77 AND WILL BE EFFECTIVE JULY 1, 1976. THEY ARE INTENDED FOR RECOVERY OF BUDGETED COSTS ONLY AND ARE BASED ON THE BEST POSSIBLE UTILIZATION PROJECTIONS AND THE CURRENT EQUIPMENT AND PERSONNEL CONFIGURATION.

THESE RATES WILL BE UNDERGOING CONTINUAL ANALYSIS AND VERIFICATION AND ARE SUBJECT TO CHANGE AS MAY BE WARRANTED BY EITHER THE COST OR UTILIZATION DEVIATING FROM THE CURRENT BASE.

LARGE VOLUMES OF NEW WORK MAY AFFECT TEALE CENTER COSTS AND/OR RATES, AND SHOULD NOT BE ESTIMATED WITHOUT THE ASSISTANCE OF TEALE CENTER STAFF.

APPROVED \_\_\_\_\_ DATE 7/15/76



FRANCHISE TAX BOARD  
1976/1977 RATE SCHEDULE

Revised 1976/77\*  
Rate Schedule

Personnel

|                      |                |
|----------------------|----------------|
| 1. Data Entry (1)    | 10.45 per hour |
| 2. Controls          | 12.38 per hour |
| 3. Procedure Writing | 14.35 per hour |
| 4. Programming       | 19.00 per hour |
| 5. Systems Design    | 21.68 per hour |

Computer Operations

|                     |                          |
|---------------------|--------------------------|
| 6. CPU              | 363.82 per CPU hour      |
| 7. Selector Channel | 26.23 per occupancy hour |
| 8. Core             |                          |
| Real Core           | .152 per Kcore/hour      |
| Virtual Core        | .07 per Kcore/hour       |
| 9. Tape Drive       | 19.34 per occupancy hour |
| 10. Disk Storage    | 12.85 per occupancy hour |
| 11. Print lines     | .00054 per line          |
| 12. Cards Read      | .00608 per card          |
| 13. Cards Punched   | .01657 per card          |

COM

|                                   |                     |
|-----------------------------------|---------------------|
| 14. Rate per each original frame  | .012803             |
| 15. Rate per each duplicate frame | .002975             |
| 16. Fixed Costs:                  |                     |
| a. Each cassette                  | 1.50                |
| b. Personnel cost                 | 15.00 total per job |

ATS

|                                       |                          |
|---------------------------------------|--------------------------|
| 17. Rental of Data Set                | 38.65 per month          |
| 18. Line Adapter                      | 22.26 per month          |
| 19. Installation Charges              | 74.65 one time cost      |
| 20. Rate per connect hour             | 3.52 per connect hour    |
| 21. Additional PRR's                  | .025 each additional PRR |
| 22. Print - per line                  | .0005 per line           |
| Minimum (100 pages)                   | 3.30 per 100 pages       |
| 23. Training Coordinator              | 12.00 per hour           |
| 24. Operator Service                  | 7.75 per hour            |
| 25. Programming Assistance            | 21.68 per hour           |
| 26. Use of PRR Tape (extended period) | .05 per day              |
| 27. Weekend cost to run ATS           | 128.00 per hour          |

FRANCHISE TAX BOARD  
1976/1977 RATE SCHEDULE

Revised 1976/77\*  
Rate Schedule

Video System

|                      |                     |
|----------------------|---------------------|
| 28. DASD (per month) | \$ .8292 per cyl.   |
| 29. Inquiry          | .0138 per inquiry   |
| 30. Telephone Charge | 162.61 per month    |
| 31. Equipment (2)    |                     |
| Local                | 140.00 per terminal |
| Remote               | 350.00 per terminal |

\*All rates include Division and Departmental Overhead.

Notes:

- (1) Data Entry charges will be discounted for volume work as follows:

| <u>Volume<br/>Discount Hours</u> | <u>Off-Season<br/>Discount %</u> |
|----------------------------------|----------------------------------|
| 1 - 1520                         | 15%                              |
| 1521 - 3040                      | 20%                              |
| 3041 - 6080                      | 20%                              |
| 6081 and over                    | 20%                              |

The discount will be applied as a manual cost adjustment to the quarterly invoice and will be based on the volume of work done to date.

- (2) Terminal rates are to be used for estimating purposes only. Video terminals costs can only be determined after configuration is known.



APPENDIX H

Cooperative Consumer Protection Program

Grant Application

For the Period August 1, 1977 through July 31, 1978

OFFICE OF CRIMINAL JUSTICE PLANNING

GRANT AWARD

The Office of Criminal Justice Planning, hereinafter designated "OCJP", hereby makes a grant award of funds to 1. Department of Consumer Affairs hereinafter designated "Subgrantee", under the provisions of (check one)  Title 1, Part \_\_\_\_\_, Omnibus Crime Control and Safe Streets Act of 1968 (PL 90-351), as amended, hereinafter designated "Crime Control Act" (or)  Juvenile Justice and Delinquency Prevention Act of 1974 (PL 93-415), hereinafter designated "Juvenile Justice Act", in the amount and for the purpose and duration set forth in this grant award.


Program Category \_\_\_\_\_

|                                                                                                                                                                                            |                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 2. Project Title<br>Consumer Complaint and Criminal Justice Data Retrieval System                                                                                                          | Award No.<br>5.                                                                                                                  |
| 3. Project Director (Name, Address, Telephone)<br>Marialec Neighbours, Acting Chief<br>Division of Consumer Services<br>1020 N Street, Room 504<br>Sacramento, Ca. 95814<br>(916) 322-5252 | Grant Period<br>6.8/1/77 to 7/31/78<br>Federal Amount<br>7. \$202,500<br>State Buy-In<br>8. 22,500<br>Applicant Hard Match<br>9. |
| 4. Financial Officer (Name, Address, Telephone)<br>Herbert P. Dong<br>1020 N Street, Room 533<br>Sacramento, Ca. 95814<br>(916) 445-5036                                                   | Other Match (JJ only)<br>10.<br>Total Project Cost<br>11. \$225,000                                                              |

This grant award consists of this title page, the application for the grant which is attached hereto as Attachment A and made a part hereof, and the Standard Grant Award Conditions which are attached hereto as Attachment B and made a part hereof.

The Subgrantee hereby signifies its acceptance of this grant award and agrees to administer the grant project in accordance with the terms and conditions set forth in or incorporated by reference in this grant award and the applicable provisions of the Crime Control Act identified above.

The Subgrantee certifies that federal and state funds received will not be used to replace local funds that would, in the absence of such federal and state aid, be made available for the activity being supported under this agreement.

12.  Date 2/1/78  
 Official Authorized to sign for Subgrantee  
 Name: Richard B. Spohn  
 Title: Director  
 Telephone: (916) 445-4465  
 Address: 1020 N Street, Room 516  
 Sacramento, Ca. 95814  
 SPECIAL DEPOSIT FUND LEAA, Fiscal Year \_\_\_\_\_

OFFICE OF CRIMINAL JUSTICE PLANNING,  
 STATE OF CALIFORNIA

Executive Director, OCJP \_\_\_\_\_ Date \_\_\_\_\_

GENERAL FUND

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of this expenditure stated above.

ITEM \_\_\_\_\_

OCJP Fiscal Officer

## PROBLEM STATEMENT

White collar crime is costing California consumers over four billion dollars a year. State and local consumer protection and consumer fraud agencies are unable to act with maximum effectiveness to eliminate fraudulent business practices and deceptive activities for two reasons: First, the agencies lack manpower and resources sufficient to respond to the increasing number of consumer complaints, which results in more "crisis intervention" and less "preventive maintenance". Instead of concentrating on ways to keep specific types of economic crime from occurring or recurring and spreading throughout the state, most of the available resources must be directed toward investigating and prosecuting "priority" violations. Second, there is no timely and effective communications link between the numerous complaint handling agencies throughout the state. Many times two or more agencies, unknown to one another, conduct investigations of and prosecute the same business or individual. Also, an agency may have a number of complaints against a company which, by themselves, are not sufficient to file charges. There could, however, be many times that number of complaints in various agencies which, when assembled, would represent a significant violation of the law.

There are fifty-eight (58) district attorney offices, seventeen (17) county consumer protection agencies, four (4) attorney general consumer fraud divisions, at least forty-two (42) regulatory boards, bureaus and commissions, and numerous city attorney offices which receive, investigate, act on and resolve consumer complaints. The compilation of meaningful information and statistics regarding prevalent types of economic crime on a statewide basis is not feasible with the current manual and semi-automated systems used by the various agencies. Although a few agencies have computer programs which partially catalogue their complaint and investigative activity, there exists no economical, effective method of combining and sharing the information. Thus, relief via legislation, consumer education, injunctions and other remedies generally comes about after substantial money losses and other damages have been suffered.

Quantifying the problems that exist is extremely difficult. Because of the lack of communication among the various agencies, information gathered regarding illegal activities conducted by specific businesses is haphazard at best. Only through chance discussions at meetings or by random telephone calls to selective agencies is information exchanged. There are no reports generated which consolidate and catalogue illegal or deceptive business practices.

There are, however, particular cases which evidence the gravity of the problem. They are an indication that many more exist which are costing hundreds of thousands of dollars in lost revenue to governmental agencies due to minor instead of major settlements, thousands of hours of duplicated investigative time, and hundreds of thousands of dollars in savings to consumers through injunctive and other relief. Specific examples gathered from representatives of the District Attorney's Association and the Office of the Attorney General are as follows:

- \* Cases involving the same business are being investigated by several agencies. There have been up to ten (10) lawsuits in progress at the same time against the same business.

Legislators have rejected some consumer protection legislation, criticizing the law enforcement agencies for what they consider "piecemeal" investigations and undue hardship on and harassment of businesspeople.

- \* Separate lawsuits, as cited above, increase taxes and crowd court calendars.
- \* A case involving the complaints of a single agency resulted in revenue to the county of \$5,000. If that agency had been aware of the other agencies' complaints against the particular business, close to \$150,000 could have been recovered.
- \* Nine hundred people were cheated by a business opportunities company. None of the agencies involved had more than one complaint, which was insufficient to take action. An action on the total complaints could have prevented the bulk of the people from being cheated.
- \* One agency had two or three complaints regarding weight shortages. Due to larger priorities, the case was handled simply and resulted in a \$50 fine. It was discovered later that almost every county had the same problem, and could have helped to build a substantive case, deterring future illegal activities.

Cases which do not reflect the scope of the illegal activities result in comparatively small penalties, which are not effective deterrents to large companies. The companies then feel free to go elsewhere and continue the same illegal and deceptive practices.

- \* An agency's settlement of a case precluded prosecution of earlier, like violations by the same company, which other agencies were investigating.

#### ORGANIZATIONAL QUALIFICATIONS

The Consumer Affairs Act of 1970 delineates the powers and duties of the Director of the Department of Consumer Affairs. Section 310 of the Business and Professions Code mandates the Director to "Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers; represent the consumer's interests before federal and state legislative hearings and executive commissions; assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of consumers; study, investigate, research and analyze matters affecting

the interests of consumers; . . . . call upon other state agencies for information; propose and assist in the creation and development of consumer education programs; advise the Governor and Legislature on all matters affecting the interests of consumers; and maintain contact and liaison with consumer groups in California and nationally." In addition, Sections 320 and 321 allow the Director to intervene in matters or proceedings pending before any state or federal court or agency which may affect substantially the interests of California consumers, and to commence legal proceedings against violators of state and federal laws where it appears consumers' interests are being damaged.

This legislation, coupled with the Governor's approval of an increase in excess of 100% in the budget of the Division of Consumer Services (the consumer protection arm of the Department) over the past two years to implement the Act, affirms the Department's responsibility for the protection of consumers' rights.

The Department is the statewide coordinator of all consumer related activities, and has an outreach program unequalled by any other agency. It receives and mediates over 100,000 complaints per year, referring criminal and unlicensed cases to the district attorneys, and disciplinary cases to the Attorney General. Its Division of Investigation has a staff of eighty (80) investigators, who provide services to twenty-three (23) of the regulatory boards and bureaus, and assistance to other state and local agencies. One of the Department's priorities during the past two years has been to open up lines of communication with district and city attorneys; city, county and private consumer protection agencies; the Attorney General's Office; the Departments of Health and Agriculture; and consumers. In addition, informational and educational materials are disseminated via a mailing list of five thousand (5,000), including consumers, teachers and other educators, consumer groups, women's groups, senior citizen groups, and public and private attorneys.

Four of the five executive positions (Director, Deputy Director, Chief and Deputy Chief of Consumer Services) associated with this project are attorneys, particularly skilled in the social sciences. Totally, there is considerable expertise in organizational management, analytical processes and law enforcement. In addition, the Division of Consumer Services, in which the project is housed, has several units which contain experts in their specific fields, and whose services will be of inestimable value in ensuring the success of the project.

- \* The Local Liaison Unit, headed by the Executive Officer of the Consumer Advisory Council, is responsible for the establishment of a wide-range consumer agency network including county, state and federal agencies and private consumer groups. The unit promotes the formation and development of local efforts, and informs the Department of issues, activities and developments in areas of consumer interest.
- \* The Research and Development Unit, headed by a specialist in the methodology and scope of research project development, coordinates with and provides technical and program consultation services to other units. The unit's expertise includes development of trend analyses methods and procedures.



- \* The Legislation Unit, headed by the Department's Legislative Coordinator, recommends and proposes the enactment of legislation to promote and protect consumer interests. The unit also defines legislation to interested groups, testifies before the Legislature, and acts as chief advocate in making presentations to individual legislators.
- \* The Representation Unit initiates legal proceedings and intervenes in pending proceedings when necessary to protect consumer interests. The unit also protects consumers from the sale of goods and services through the use of false or misleading advertising by gathering evidence to substantiate advertising claims. Evidence of inadequate substantiation is provided to prosecuting authorities. The head of the unit has practiced both private and public interest law for sixteen years, representing consumers in both state and federal court actions. A former Deputy Director of the National Consumer Law Center in Boston, he assisted in drafting the National Consumer Act and lobbied its adoption in Wisconsin. He has also been involved in the development of various consumer-oriented systems.
- \* The Education Unit, headed by a Consumer Affairs Specialist, provides information and assistance to consumers, and coordinates educational efforts with state and local consumer groups. Particular consumer problems identified by other units are addressed from an education standpoint, and materials are developed and promulgated accordingly.

In summary, the Department has the necessary tools and skills, as well as the authority and responsibility confirmed by the Executive and Legislative branches of government, to effectively help the public in the areas of deceptive business practices and illegal activities.

#### PROJECT OBJECTIVES

1. Develop an automated complaint data bank which will provide users with information sufficient to:
  - \* Increase number and impact of civil and criminal prosecutions.
  - \* Strengthen disciplinary actions, thereby increasing number of revocations and suspensions of licenses.
  - \* Secure voluntary compliance with the laws.
  - \* Eliminate duplication of investigative and prosecutory activity.
  - \* Identify trends and geographical movement on a timely basis.
  - \* Eliminate manual record-keeping systems.
  - \* Recover maximum revenue for governmental agencies.

- \* Recover maximum dollars for consumers.
  - \* Issue timely consumer alerts.
2. Develop a system which will operate within the constraints of confidentiality of data and public disclosure laws; e.g., one which will not harm businesspeople or consumers.
  3. Develop statistical reports which will:
    - \* Identify and support necessary consumer legislation.
    - \* Assist users in prioritizing available manpower and other resources.
    - \* Assist users in identifying and supporting the need for additional resources.
    - \* Provide units within the Division of Consumer Services and other non-users with information helpful in resolving critical consumer issues.
  4. Bring into the developed system every complaint handling agency in the state.

#### GRANT-YEAR OBJECTIVES

1. Establish a pilot system containing fifteen (15) users.
2. After conclusion and evaluation of the pilot program, have available a system for all interested users.
3. Add five (5) new users to the developed system.

#### METHODOLOGY

The Department is looking toward the development of a computerized data storage and retrieval system as the tool which will provide the greatest assistance in promoting information sharing and cooperation among complaint handling agencies, and identifying significant illegal activities and consumer concerns. A feasibility study is currently being conducted to examine the concept of such a system; to look at alternative methods; and to determine whether a similar system in effect in the State of Wisconsin can be adapted totally or in part for California.

Prior to a contract with the Department of General Services for the feasibility study, all available information regarding other complaint data retrieval proposals, studies and systems was gathered to examine the problems inherent in a system of this type, to look at the benefits to be derived, to determine which, if any, systems were operating, and to incorporate them into the feasibility study. Some of the studies and systems examined are as follows:

- \* The Department of Health, Education and Welfare's General Services Administration in Texas prepared phase one of a three-phase conceptual design in March 1975, which recognized the need for an information sharing system and included a preliminary system design. The project was not continued due to lack of funding.
- \* The District Attorney's Office in Los Angeles conducted a feasibility study in 1974, which supported a countywide automated complaint data system. The proposed system was never developed due to inability to secure funding.
- \* The Federal Trade Commission in California began implementing a system in 1971 which included as participants several district attorney offices and the Office of the Attorney General. It was subsequently aborted. The system was impractical from a user standpoint primarily due to its complexity and the time required to input information.
- \* The Department of Justice in Wisconsin established a system in 1970 which is still operating, and which has proven effective in combatting white collar crime. The data bank has twelve users including state departments and district attorney offices.

Since the Wisconsin plan is the only working system in the nation of which we are aware, its staff agreed to reproduce its entire program for us to analyze and evaluate, both within and outside of the feasibility study. To date, it appears we will be able to modify between thirty and fifty percent of the system.

- \* The Department of Agriculture and Consumer Affairs in Florida has done some preliminary evaluation of the benefits of a similar system, and is conducting a feasibility study concurrent with this Department. Information is being shared on a regular basis, and we hope to acquire information which will be beneficial to a California system.

Data is also gathered from potential user groups, which will determine the breadth of the program, the specific types of information to be stored, the document(s) to be used for inputting data, and the types and frequency of reports to be issued. It is extremely important that the users make these determinations, since the system is for their benefit and requires full and active participation to be effective.

Subsequent to completion of the feasibility study, a system will be designed which is simple, easy to use, inexpensive, and which captures and reports information to effectively assist the users. The system will be tested both internally and with real input provided by a limited number of users. Upon completion of the testing/modification process, the data bank will be open to every complaint handling agency within the state. 1/

1/ At this time, policy has been established which limits participation to governmental agencies. Until all of the ramifications of the confidentiality of data and public disclosure laws have been analyzed, this policy will remain in effect.

The system will be evaluated on a continuous basis to ensure it is meeting the needs of the users, and to determine to what extent it is assisting in the reduction of illegal activities and deceptive business practices.

It is estimated that at the end of the first grant year (July 31, 1977), a prototype will be developed and ready for pilot participation, evaluation and modification. The pilot program will commence August 1, 1977, and will remain in effect for at least six (6) months of the second grant year. The activities related to this phase are as follows:

- \* Training materials, code and instruction books, and original and follow-up input documents will be developed by the Program Manager, Jr. Staff Analyst, and Associate Programmer Analyst. The estimated fifteen (15) users selected for initial participation will be trained in the use of the materials by the manager and staff analyst. Temporary clerical support will be provided for each user to input current and up to six (6) prior months of complaint activity. This will provide the system with a history file sufficient to commence testing and evaluation.
- \* Stored data which has been sorted, updated and catalogued will be disseminated as follows:
  1. Telephone inquiries from users will be responded to immediately via daily computer update and terminal access to the computer by program staff.
  2. Microfiche will be produced weekly and forwarded to users by the program staff. Users will be provided with microfiche readers, and with reader-printers, where necessary.
  3. Hard-copy reports will be produced and forwarded monthly, quarterly and yearly as necessary.
- \* An advisory committee established during the first grant year and including representatives of the four (4) pilot user groups (Attorney General, district attorneys, county consumer protection agencies and regulatory boards and bureaus) will continue to meet monthly to review and evaluate the effectiveness of the program. Also included in the meetings will be program and data processing staff, who will advise on and subsequently effect, necessary program changes.
- \* Users will be trained to read and act on the reports which are generated. The Jr. Staff Analyst will provide the training and will also assist users in preparing reports and alerts based on the contents of the output.

Upon conclusion and evaluation of the pilot phase of the program, an estimated five (5) new users will be recruited and added to the developed system during the remainder of the grant year.

- \* Prospective users will be identified by the advisory committee, recruited by the Program Manager, and trained by the Jr. Staff Analyst and data processing staff.
- \* The Program Manager and Associate Programmer Analyst will assist each user in identifying its needs for information and statistical reports. Existing computer programs will be adapted to meet those needs, and new programs will be developed as necessary.
- \* Temporary help will be provided to each new user as necessary to input all current complaint data. As with the pilot participants, staff time required to perform the ongoing input function will be provided by the users.
- \* Materials and microfiche equipment will be furnished to meet current and ongoing needs.

The conclusion of the second grant year will see a system operating with a sufficient number of users to gather base data and prepare measurement criteria for program effectiveness. The thrust of the third year will be twofold:

1. Add as many new users as possible to broaden the history file.
2. Determine if, and to what extent the system is meeting its objectives.

The program is drawing on the expertise, not only of this Department, but of other public and private groups and individuals in order to:

1. Design and operate a usable, effective system.
2. Avoid mistakes and pitfalls of other designs and operational systems.
3. Eliminate large expenditures of funds by capturing the "best" of previous system designs.

The quantity of "needs" and other informational materials flooding the Program Manager's office from law enforcement and complaint mediation agencies throughout the state indicates a real interest in the development and implementation of a system which can assist the agencies in achieving a greater degree of success in dealing with white collar crime. The enthusiastic and active participation of the members of the advisory committee evidences a firm commitment to cooperate in the design of a complaint data bank which can be used effectively by all users.

The District Attorney's Association developed, promulgated, weighted, evaluated and forwarded questionnaires outlining the needs of the most active district attorney offices. The same questionnaire was used to poll other user groups. The Deputy Attorney General in charge of consumer fraud has input a significant amount of information for use in the developmental process. The various boards and bureaus within the Department, as well as many county consumer protection agencies have provided needed insights into the needs of regulatory and mediation agencies. Each cooperating agency has a direct interest in the success of the project, since each will become a recipient of the benefits of the system. Letters from the initial user group representatives are located in Section D of the Appendix.

As stated previously, no similar information-sharing programs exist, not only in California, but throughout the country, with the exception of the State of Wisconsin and the two or three states which have implemented its system.

Staff Training needs are being continually assessed as the system is developed. The Data Processing Technician recently completed an in-service course in job control language. At least one course in statistics will be completed by the Jr. Staff Analyst. Both of the data processing personnel will be trained by the Data Processing Manager in general Departmental procedures, as well as affiliated data center processes. The Program Manager is participating in the "Program Management" series offered by the University of California, Davis extension program. In addition, a library of materials is being developed which contains all relevant information from the program's outset. All staff are required to familiarize themselves with the data being compiled, as well as to attend the advisory committee meetings, which apprise the staff of direction, policy and developmental changes.

Assistance will be requested from the Departmental Training Officer in the development of a users' instruction package, and in the methodology to be used by the staff in its field training.

Department  
Consumer Affairs

Chief Deputy Director

Chief, Division of  
Administration

Data Processing Manager

Provides direct supervision to D.P. personnel. Gives technical advice. Assists in developmental and operational problem solving.

Associate Programmer Analyst

Data Processing Technician

Advisory Committee  
Representatives of:  
Attorney General's Office  
District Attorneys  
County Consumer Protection  
Agencies  
Regulatory Boards and Bureaus

Departmental Staff:  
Legal Counsel  
Chief, D.C.S.  
Supervising Attorney,  
Representation Unit  
Program Manager  
Programmer Analyst  
Program Assistant

Assists in development of system by identifying user and user group needs.

Project Director  
Chief, Division of  
Consumer Services

Sets policy and establishes general program direction and scope of operation.

Program Manager  
Staff Services Manager I  
Cooperative Consumer Protection  
Program, Complaint Data System

Develops pilot program, trains users, and "sells" system to potential users. Plans, organizes, and directs the developmental and operational phases of the program. Coordinates with prospective users and user groups. Requests, disburses and approves expenditures of grant funds. Plans and prepares agendas for advisory committee. Evaluates and transmits data developed by the committee to data processing and other systems personnel.

Program Assistant  
Jr. Staff Analyst

Stenographer

| RESPONSIBILITY CODES |                       |
|----------------------|-----------------------|
| 1.                   | PROGRAM MANAGER       |
| 2.                   | PROGRAM ASSISTANT     |
| 3.                   | PROGRAMMER ANALYST    |
| 4.                   | DATA PROCESSING TECH. |
| 5.                   | STENOGRAPHER          |
| 6.                   | STEERING COMMITTEE    |

COOPERATIVE CONSUMER PROTECTION PROGRAM

END OF GRANT PERIOD

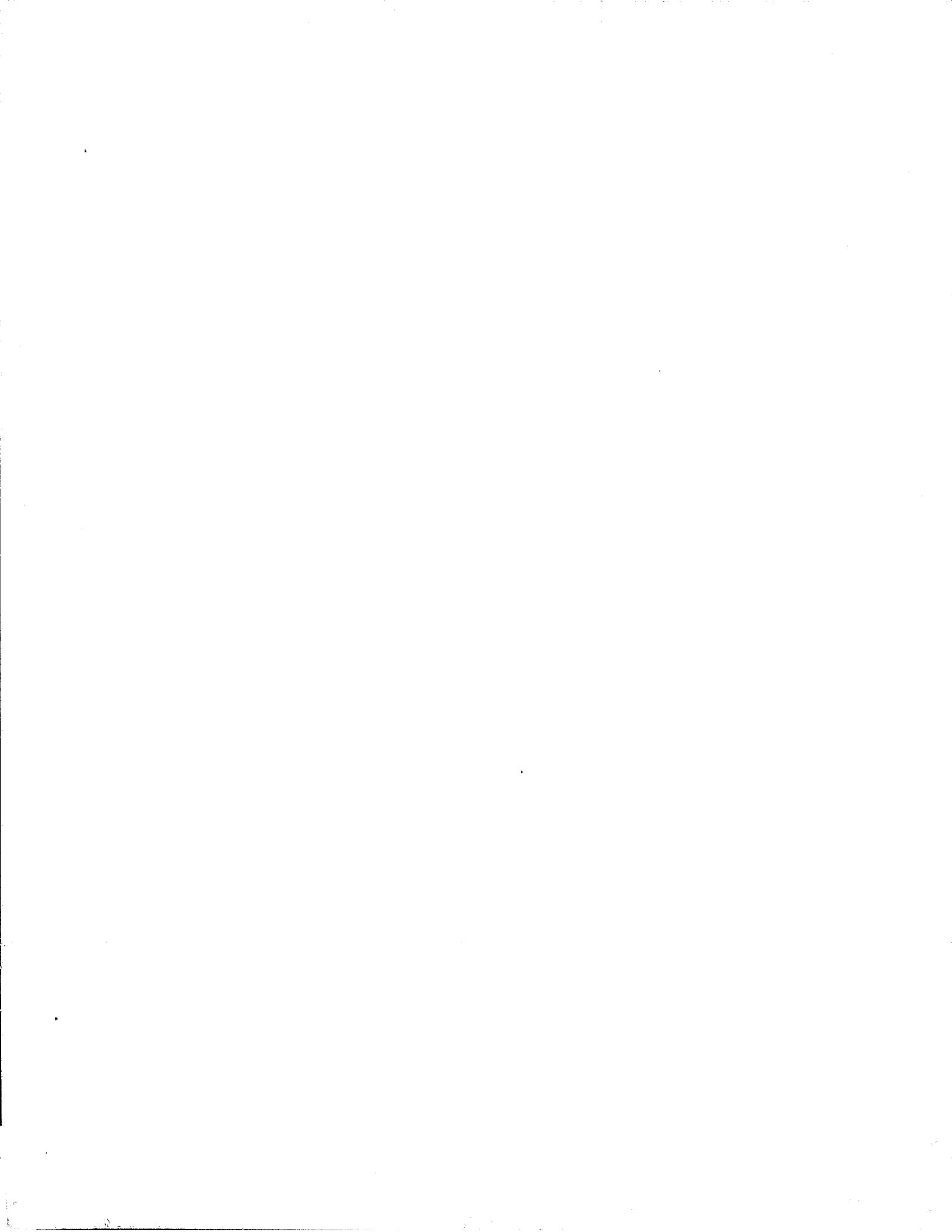
1977

1978

| TASK NO | TASK/ACTIVITY DESCRIPTION                              | RESPONSIBILITY |         | 1977 |      |     |     |     |     |     |     |     |     |     |     | 1978 |      |     |     |  |
|---------|--------------------------------------------------------|----------------|---------|------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|------|-----|-----|--|
|         |                                                        | PRIMARY        | SUPPORT | AUG  | SEPT | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG  | SEPT | OCT | NOV |  |
| 1.      | FINANCIAL REPORTS                                      | #              | X       |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 2.      | PROGRESS REPORTS                                       | #              | X       |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
|         | PILOT PROGRAM                                          |                |         |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 3.      | VERIFICATION AND PROCESSING OF INPUT                   | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 4.      | DISTRIBUTION OF REPORTS                                | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 5.      | ASSISTANCE TO USERS                                    | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 6.      | PROGRAM EVALUATION                                     | #              | X       | X    | X    | X   |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 7.      | PROGRAM MODIFICATIONS                                  | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
|         | INCLUSION OF FIVE (5) NEW USERS INTO DEVELOPED PROGRAM |                |         |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 8.      | PROMOTION AND SELECTION                                | #              | X       |      | X    |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 9.      | NEEDS ASSESSMENT                                       | #              | X       | X    |      | X   |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 10.     | TRAINING                                               | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 11.     | PROGRAM MODIFICATIONS                                  | #              | X       |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 12.     | VERIFICATION & PROCESSING OF INPUT                     | #              | X       |      | X    |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 13.     | DISTRIBUTION OF REPORTS                                | #              | X       |      | X    |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 14.     | PROGRAM EVALUATION                                     | #              | X       | X    | X    | X   |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 15.     | ASSISTANCE TO USERS                                    | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
|         | DEVELOPMENT AND PREPARATION OF MATERIAL PRODUCTS       |                |         |      |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 16.     | NEEDS ASSESSMENT                                       | #              | X       |      | X    |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 17.     | DEVELOPMENT                                            | #              | X       | X    | X    | X   |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 18.     | PREPARATION                                            | #              | X       | X    | X    | X   |     |     |     |     |     |     |     |     |     |      |      |     |     |  |
| 19.     | TRAINING                                               | #              | X       | X    |      |     |     |     |     |     |     |     |     |     |     |      |      |     |     |  |

12





**CONTINUED**

**4 OF 5**

## MANAGEMENT RECORDS

The clientele served (users) and computer services rendered (key-punching of input documents, file updates, preparation of microfiche, hard copy and special reports, etc.) by the project will be accounted for in a computer program designed to allocate services and costs to specific users. Services provided by the program staff (video inquiries, auditing of input documents, copywork, distribution of reports, etc.) will be accounted for manually on a time-spent basis. Services which cannot be allocated on an actual basis (consumer alerts, studies, complaint tracking, etc.) will be catalogued and pro-rated to each of the applicable users.

Expenditures are accounted for by the Departmental Accounting Office with a Phillips bookkeeping machine. Statements are issued monthly or on demand, if necessary. The office adheres to the State Administrative Manual in developing and implementing its accounting procedures, and follows the required retention schedule for source documents.

Detailed records are kept relating to contracts for technical services and charges against each contract are verified and deducted from the total to ensure proper spending.

Paid full-time and temporary personnel are established in separate reporting units and supported by warrant registers. Full-time employees who devote only a portion of their time to the project (Project Director, Data Processing Manager) submit approved time sheets each month which are filed by both program staff and the Accounting Office. Voluntary help will be recruited, when possible, and program staff will prepare file cards showing amount and purpose of time spent.

### INTERNAL ASSESSMENT DESIGN

The measurements or bench marks indicative of successfully meeting the objectives of the program are, at this time, unquantifiable. As the project progresses through the developmental and pilot phases and into statewide operation, data will be gathered to be used as a base for future measurement. Also, until the statewide user population is known; i.e., the number, size, and complaint impact of agencies using the data bank; and the extent to which we can design a usable system which will capture all necessary data has been determined; it is impossible to predict when, if, and to what degree we can meet the stated objectives.

In gathering data to be used as a basis for measurement, we are considering the following:

1. Number of civil, criminal and disciplinary cases tried annually and their location (county jurisdiction).

2. Results of litigations; i.e., number of cases won, penalties and fines assessed, injunctive relief provided to consumer, licenses revoked or suspended, etc.
3. Type and amount of illegal operations movement from county to county.
4. The twenty (20) or so most prevalent types of economic crime.
5. Number of man-hours expended annually, by agency, on investigations and prosecutions versus number of respondents investigated and prosecuted.
6. Number of man-hours expended annually, by agency, on office recordkeeping systems.
7. Number of consumer bills introduced and passed each legislative session.
8. Number and types of users, and number of complaints input into the system.

Base data will be collected from computer output, and from manual input supplied by the user groups and non-user Departmental staff. The Program Manager and Jr. Staff Analyst will be responsible for the accumulation of data, and for the subsequent measurement of new data. No determination has been made as to the method of recording measurement data. If it proves cost effective, a computer program will be designed which will store base data, accept new input, and provide percentage and time reports of changes.

The initial assessment of the program's effectiveness will be made by the Program Manager in conjunction with the Project Director and Data Processing Manager to ensure that the data provided meets the established measurement criteria. A further, comprehensive assessment will be made by the Budget and E.D.P. staff of the Department of Finance, the staff of the Legislative Analyst's Office, participating users and user groups and the Director of the Department of Consumer Affairs. None of the non-departmental staff will be paid for their services with the exception of travel expenses if a joint assessment meeting becomes necessary.

#### PLAN FOR ASSUMPTION OF COSTS

No specific contacts or proposals have been made to date to secure ongoing funding for an automated, statewide complaint data system. General discussions have taken place with user groups, the Department of Finance, the Legislative Analyst's Office and Federal Government employees. At this time, three (3) approaches are being examined:

## 1. General Funding

As a service which benefits the general public, the program could, if proven effective, be presented to the Legislature and the Governor for consideration as a General Fund Budget Act Item. The Wisconsin Department of Justice was successful in securing approval for this type of funding, with users bearing the cost of special reports and services.

## 2. Federal Funding

The Federal Government has long been interested in implementing an automated complaint data system on a national basis; i.e. identical code systems, definitions of problems and products or services, follow-up actions, etc. If we are successful in developing a system which will effectively serve to deter white collar crime in California, it is possible that Federal monies could be made available, and that our program could serve to launch a nationwide system.

## 3. User Funded

The funding of the system by those that make use of it would appear to be the easiest, most reasonable method. However, many agencies, particularly local units of government, are operating on extremely tight budgets and an increase, no matter how relatively small, may deter a vital user from participating in the system.

Whether we are able to secure a commitment from a Federal agency, receive approval to be part of the State General Fund, or become user funded, we are committed to developing an inexpensive, cost effective system which is simple to use, easy to incorporate into existing office procedures, and worthwhile to users in their quest to eliminate white collar crime in California.

## OFFICE OF CRIMINAL JUSTICE PLANNING

## 15. PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | COST      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| A. Personal Services - Salaries                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |           |
| <p>PROJECT DIRECTOR- (Chief, Div. of Consumer Services)<br/> \$2,557 x 12 months x 5%</p> <p>Sets policy and establishes general direction of the program. Serves on advisory committee.</p>                                                                                                                                                                                                                                                                                                                                                        | \$1,534   |
| <p>PROGRAM MANAGER- (Staff Services Manager I)<br/> \$1,744 x 12 months x 100%</p> <p>Responsible for all developmental and operational phases of program including methodology and procedures. Coordinates with User Groups, Departmental Data Processing Unit and Executive Office, and the Department of Finance EDP and Budget units. Reports to Chief, Division of Consumer Services. Directly supervises Junior Staff Analyst, Stenographer, and temporary help. Indirectly supervises Programmer Analyst and Data Processing Technician.</p> | \$20,928  |
| <p>JUNIOR STAFF ANALYST- Range A<br/> \$919 x 12 months x 100%</p> <p>Acts as assistant to Manager in implementing program. Assumes responsibility in the absence of Manager, and makes decisions as necessary. Develops and prepares statistical reports. Does research for legislation and tracking of criminal and other complaint activity.</p>                                                                                                                                                                                                 | \$11,028  |
| <p>STENOGRAPHER- Range B<br/> \$787 x 12 months x 100%</p> <p>Under direction of the Program Manager, provides full clerical support for all program personnel.</p>                                                                                                                                                                                                                                                                                                                                                                                 | \$9,444   |
| <p>TEMPORARY HELP- (Clerk II)<br/> \$675 x 10 clerks x 1 month each</p> <p>Provides assistance to new users in inputting accrued complaint data from current manual records.</p>                                                                                                                                                                                                                                                                                                                                                                    | \$6,750   |
| TOTAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | continued |

## OFFICE OF CRIMINAL JUSTICE PLANNING

## 15. PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                                                                                | COST     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| A. Personal Services - Salaries - continued                                                                                                                                                                                                                                                                                                                                         |          |
| DATA PROCESSING MANAGER I<br>\$1,916 x 12 months x 10%<br><br>Directly supervises Programmer Analyst and Data Processing Technician. Gives technical advice and assists in problem solving.                                                                                                                                                                                         | \$2,299  |
| ASSOCIATE PROGRAMMER ANALYST<br>\$1,589 x 12 months x 100%<br><br>Analyzes input from users and Program Manager. Writes, modifies, tests, and debugs programs. Provides continuous assistance as new users come into the program and systems are refined and expanded. Reports directly to the Data Processing Manager (technical) and indirectly to the Program Manager (program). | \$19,068 |
| DATA PROCESSING TECHNICIAN<br>\$1,048 x 12 months x 100%<br><br>Assists Programmer Analyst in running and testing programs. Schedules reports and reviews outputs. Reports directly to the Data Processing Manager (technical) and indirectly to the Program Manager (program).                                                                                                     | \$12,576 |
|                                                                                                                                                                                                                                                                                                                                                                                     |          |
| TOTAL                                                                                                                                                                                                                                                                                                                                                                               | \$83,627 |

## OFFICE OF CRIMINAL JUSTICE PLANNING

## PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | COST                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| B. Personal Services - Benefits                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                               |
| <p data-bbox="217 339 824 379">24% of total Salaries and Wages</p> <p data-bbox="217 441 1040 505">Benefits include Retirement, OASDI, Health and Workmen's Compensation.</p> <p data-bbox="217 536 1097 830">The Department, with the approval of the Department of Finance, budgets staff benefits based on a percentage of the total of salaries and wages. The reason for this method is that the Department consists of thirty-nine autonomous budget items, each with a separate fund source. Development of that number of benefits schedules is much too costly for the benefits received.</p> <p data-bbox="217 861 1073 1218">The percentage is tested throughout the Department on a regular basis. During the 1975-76 FY, the 19.5% budgeted for staff benefits proved true, and on that basis the Department of Finance approved increases for the Total Equivalent Compensation package and OASDI of 3% for the 1976-77 (current) year and an additional 1 1/2% for the 1977-78 (budget) year. We therefore require a total of 24% for the 1977 grant year.</p> | <p data-bbox="1252 348 1393 387">\$20,070</p> |
| TOTAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | \$20,070                                      |



OFFICE OF CRIMINAL JUSTICE PLANNING

PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | COST                   |                        |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------|---------|--|-------------------|------------------------|-------|--|-------------------------------------------------------------|------------------------|------------|---------|--|------------------------|-----|--|---------------|------------------------|-----|--|--|------------------------|------------|-------|--|
| C. Travel-Department of Consumer Affairs Policies Used                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                        |                        |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| <p>In order to add an estimated fifteen (15) pilot users and five (5) new users to the Complaint Data Bank, it will be necessary to visit each of them, or bring them to Sacramento, to explain the merits of the system and to encourage their participation. In addition, training will be provided either individually or collectively. The cost of one of the program staff visiting an individual user agency is the cheaper method, since one person can instruct multiple agency staff. Both the Program Manager and the Junior Staff Analyst will be involved in the training of users. Forty promotional or training trips are costed as follows:</p> <table data-bbox="292 871 1218 1039"> <tr> <td>Subsistence</td> <td>40 x \$35 =</td> <td>\$1,400</td> <td></td> </tr> <tr> <td>Carrier (average)</td> <td>40 x \$50 =</td> <td>2,000</td> <td></td> </tr> <tr> <td>Miscellaneous (cab, limo, travel to airport, parking, etc.)</td> <td>40 x \$10 =</td> <td><u>400</u></td> <td>\$3,800</td> </tr> </table> | Subsistence            | 40 x \$35 =            | \$1,400 |  | Carrier (average) | 40 x \$50 =            | 2,000 |  | Miscellaneous (cab, limo, travel to airport, parking, etc.) | 40 x \$10 =            | <u>400</u> | \$3,800 |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| Subsistence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 40 x \$35 =            | \$1,400                |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| Carrier (average)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 40 x \$50 =            | 2,000                  |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| Miscellaneous (cab, limo, travel to airport, parking, etc.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 40 x \$10 =            | <u>400</u>             | \$3,800 |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| <p>The Steering Committee will continue to meet monthly through the pilot program (six months). Four (4) meetings will be held in Sacramento and two (2) in Los Angeles.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                        |                        |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| <table data-bbox="292 1291 1218 1564"> <tr> <td>Subsistence</td> <td>4 x \$35 x 3 members =</td> <td>\$ 420</td> <td></td> </tr> <tr> <td></td> <td>2 x \$35 x 9 members =</td> <td>630</td> <td></td> </tr> <tr> <td>Carrier</td> <td>4 x \$45 x 3 members =</td> <td>540</td> <td></td> </tr> <tr> <td></td> <td>2 x \$50 x 9 members =</td> <td>900</td> <td></td> </tr> <tr> <td>Miscellaneous</td> <td>4 x \$10 x 3 members =</td> <td>120</td> <td></td> </tr> <tr> <td></td> <td>2 x \$10 x 9 members =</td> <td><u>180</u></td> <td>2,790</td> </tr> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Subsistence            | 4 x \$35 x 3 members = | \$ 420  |  |                   | 2 x \$35 x 9 members = | 630   |  | Carrier                                                     | 4 x \$45 x 3 members = | 540        |         |  | 2 x \$50 x 9 members = | 900 |  | Miscellaneous | 4 x \$10 x 3 members = | 120 |  |  | 2 x \$10 x 9 members = | <u>180</u> | 2,790 |  |
| Subsistence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 4 x \$35 x 3 members = | \$ 420                 |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2 x \$35 x 9 members = | 630                    |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| Carrier                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 4 x \$45 x 3 members = | 540                    |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2 x \$50 x 9 members = | 900                    |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| Miscellaneous                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 4 x \$10 x 3 members = | 120                    |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 2 x \$10 x 9 members = | <u>180</u>             | 2,790   |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |
| TOTAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | continued              |                        |         |  |                   |                        |       |  |                                                             |                        |            |         |  |                        |     |  |               |                        |     |  |  |                        |            |       |  |

OFFICE OF CRIMINAL JUSTICE PLANNING  
PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | COST            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| C. Travel- continued                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                 |
| <p>Initial program evaluation will occur during the first six (6) months of the grant year. This will require talks with the major user groups including the District Attorneys, County Consumer Protection Agencies and the Attorney General, as well as problem solving for the pilot users on an individual basis. While many of the problems can be solved by telephone, some will require travel to the users' headquarters. An average of two (2) staff will attend, consisting of the Programmer Analyst and the Program Manager/Junior Staff Analyst.</p> |                 |
| <p>Subsistence</p> <p style="padding-left: 20px;">Talks                    6 x \$35 x 2 = \$    420</p> <p style="padding-left: 20px;">Problem Solving        15 x \$35 x 2 =    1,050</p> <p>Carrier                    6 x \$50 x 2 =        600</p> <p style="padding-left: 20px;">                              15 x \$50 x 2 =    1,500</p> <p>Miscellaneous         6 x \$10 x 2 =        120</p> <p style="padding-left: 20px;">                              15 x \$10 x 2 =     300</p>                                                                  | \$3,990         |
| <p>The State of Wisconsin has several abandoned programs, and programs in their Department of Justice legal system which may be desired for use in California. A trip to Wisconsin by both the Manager and Programmer is speculative, but has been included for budgetary purposes.</p>                                                                                                                                                                                                                                                                           |                 |
| <p>Lodging                 1 x \$25 x 2 x 2 days = \$    100</p> <p>Subsistence            1 x \$15 x 2 x 2 days =        60</p> <p>Carrier                 1 x \$350 x 2                =        700</p> <p>Miscellaneous        1 x \$15 x 2 x 2 days =        60</p>                                                                                                                                                                                                                                                                                           | 920             |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>\$11,500</b> |

OFFICE OF CRIMINAL JUSTICE PLANNING  
PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                                                                   | COST      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>F. Operating Expenses</b>                                                                                                                                                                                                                                                                                           |           |
| <b>GENERAL EXPENSE</b><br>Supplies, copywork, miscellaneous                                                                                                                                                                                                                                                            | \$ 2,968  |
| <b>PRINTING</b><br>Input and follow-up documents, reports, code and instruction booklets, stationery @ \$500 quarter (average).                                                                                                                                                                                        | 2,000     |
| <b>POSTAGE</b><br>Mailing of weekly microfiche, monthly and quarterly reports, new and updated code and instruction books, correspondence @ \$250 month (average).                                                                                                                                                     | 3,000     |
| <b>TELEPHONE</b><br>Program Manager and staff @ \$140 month. Data Processing staff @ \$60 month.                                                                                                                                                                                                                       | 2,400     |
| <b>RENT</b><br>Program Manager and Staff<br>805 square feet @ \$.54 sq. ft. = \$5,220<br><br>Data Processing Staff<br>200 square feet @ \$.54 sq. ft. = 1,297<br><br>Security Services<br>5 employees @ \$35.40 per employee      177<br><br>Leasing Services<br>@ 2.7% of base rent                      = <u>176</u> | 6,870     |
| <b>DATA PROCESSING</b><br>Video Unit:<br>Installation                      \$ 300<br>Rental @ \$450                     5,400<br>per month <u>          </u>                                                                                                                                                           | \$5,700   |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                           | continued |

OFFICE OF CRIMINAL JUSTICE PLANNING

PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                | COST         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| F. Operating Expenses - continued                                                                                                                                                                                   |              |
| Disc Storage and Spindle:                                                                                                                                                                                           |              |
| ¼ pack (25,000,000 bits)<br>required for 9,000,000<br>character record, plus<br>tables and programs<br>(Full program - \$200 month)                                                                                 |              |
| First Quarter - 50%                                                                                                                                                                                                 | \$300        |
| Second Quarter - 60%                                                                                                                                                                                                | 360          |
| Third Quarter - 80%                                                                                                                                                                                                 | 480          |
| Fourth Quarter - 100%                                                                                                                                                                                               | 600          |
|                                                                                                                                                                                                                     | <u>1,740</u> |
| Video Inquiries @ \$200 month                                                                                                                                                                                       | 2,400        |
| Microfiche:                                                                                                                                                                                                         |              |
| 4 complaints per page, 270<br>pages per fiche. 60,000<br>complaints = 56 fiche, plus<br>one extra sort = 112 fiche<br>per user, per week @ \$1.35<br>(original) and \$.07 (copies)<br>(Full program - \$16,830 yr.) |              |
| <u>First Quarter</u>                                                                                                                                                                                                |              |
| 52 fiche x \$1.35 x 13 weeks                                                                                                                                                                                        | \$913        |
| 52 fiche x \$.07 x 17 copies<br>x 13 wks.                                                                                                                                                                           | 804          |
| <u>Second Quarter</u>                                                                                                                                                                                               |              |
| 66 fiche x \$1.35 x 13 wks.                                                                                                                                                                                         | 1,158        |
| 66 fiche x \$.07 x 17 copies<br>x 13 wks.                                                                                                                                                                           | 1,020        |
| <u>Third Quarter</u>                                                                                                                                                                                                |              |
| 92 fiche x \$1.35 x 13 wks.                                                                                                                                                                                         | 1,615        |
| 92 fiche x \$.07 x 22 copies<br>x 13 wks.                                                                                                                                                                           | 1,842        |
| TOTAL                                                                                                                                                                                                               | continued    |

OFFICE OF CRIMINAL JUSTICE PLANNING

PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                  | COST         |                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------|
| E. Operating Expenses - continued                                                                                                                                                                                                                     |              |                        |
| <u>Fourth Quarter</u>                                                                                                                                                                                                                                 |              |                        |
| 112 fiche x \$1.35 x 13 wks.                                                                                                                                                                                                                          | 1,966        |                        |
| 112 fiche x \$ .07 x 22 copies<br>x 13 wks.                                                                                                                                                                                                           | <u>2,242</u> | 11,560                 |
| Computer Services:                                                                                                                                                                                                                                    |              |                        |
| <p>\$500 per hour (internal time)<br/>plus regular program ancillary<br/>costs of 200% and program<br/>testing ancillary costs of 100%<br/>(includes memory time, tape and<br/>disc occupancy, card reading,<br/>control, and procedure writing.)</p> |              |                        |
| Schedule:                                                                                                                                                                                                                                             |              |                        |
| 10 minutes computer time<br>(daily update) x 52 weeks                                                                                                                                                                                                 | \$ 4,350     |                        |
| 1 minute computer time<br>(extra sort) x 52 weeks                                                                                                                                                                                                     | 433          |                        |
| Ancillary costs @ 200% of<br>\$ 4,783                                                                                                                                                                                                                 | 9,567        |                        |
| 1 hour computer time<br>(program testing) x 12<br>months                                                                                                                                                                                              | 6,000        |                        |
| Ancillary costs @ 100% of<br>\$ 6,000                                                                                                                                                                                                                 | <u>6,000</u> | 26,350                 |
| Data Transcription:                                                                                                                                                                                                                                   |              |                        |
| <p>60,000 complaints, 150<br/>characters each = 9,000,000<br/>strokes. 8,000 keypunch<br/>strokes per hour = 1,125<br/>hours. 9,500 verification<br/>strokes per hour = 948 hours.</p>                                                                |              |                        |
| 2,073 hours @ \$10.25 per hour                                                                                                                                                                                                                        |              | <u>21,250</u> \$69,000 |
| TOTAL                                                                                                                                                                                                                                                 | continued    |                        |

## OFFICE OF CRIMINAL JUSTICE PLANNING

## 15. PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                                                                                   | COST                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| F. Operating Expenses - continued                                                                                                                                                                                                                                      |                                               |
| <p data-bbox="201 339 652 375">ADMINISTRATIVE PRO-RATA</p> <p data-bbox="256 406 1122 544">Departmental overhead is currently charged at the rate of 5.82% of each agency's total expenditures; therefore, the maximum allowed by L.E.A.A. can be fully supported.</p> | <p data-bbox="1273 513 1409 549">\$10,715</p> |
| TOTAL                                                                                                                                                                                                                                                                  | \$96,953                                      |

OFFICE OF CRIMINAL JUSTICE PLANNING

PROJECT BUDGET

| BUDGET CATEGORY AND LINE ITEM DETAIL                                                                                                                                                                    |             |            | COST       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------|------------|
| G. Equipment                                                                                                                                                                                            |             |            |            |
| Five (5) Microfiche Printer/Readers<br>Required for new users after completion of the pilot program<br>\$1,950 each x 5                                                                                 |             |            | \$9,750    |
| Six (6) Microfiche Readers<br>To provide larger District Attorney offices with additional readers, bringing each office to a total of two<br>\$250 each x 6                                             |             |            | 1,500      |
| One (1) Electronic Calculator<br>(with dual memory, percent key, tape)<br>Required to prepare reports combining computer and manual statistics, reformatted computer statistics, etc.<br>\$450 each x 1 |             |            | 450        |
| One (1) Supply Cabinet ( 3 shelf with lock)<br>\$100 each x 1                                                                                                                                           |             |            | 100        |
| Two (2) File Cabinets (5 drawer with lock)<br>\$150 each x 2                                                                                                                                            |             |            | 300        |
| Two (2) Work Tables (Apronless, 42" x 84")<br>\$200 each x 2                                                                                                                                            |             |            | 400        |
| One (1) Bookcase (Wood, 3 shelf)<br>\$100 each x 1                                                                                                                                                      |             |            | 100        |
| Miscellaneous Equipment                                                                                                                                                                                 |             |            | 250        |
| CATEGORY TOTAL                                                                                                                                                                                          |             |            | \$ 12,850  |
| 16. PROJECT TOTAL Pages omitted, 9 and 10                                                                                                                                                               |             |            | \$ 225,000 |
| 17. FUND DISTRIBUTION                                                                                                                                                                                   | FEDERAL     | STATE      | LOCAL      |
| a. Amount of Funds                                                                                                                                                                                      | (a) 202,500 | (b) 22,500 | (c) -----  |
| b. Percentage of Funds                                                                                                                                                                                  | 90          | 10         | -----      |

DUTY STATEMENTS

Project Director

Program Manager

Junior Staff Analyst

Stenographer

Data Processing Manager

Associate Programmer Analyst

Data Processing Technician



## DUTY STATEMENT

PROJECT DIRECTOR  
Chief, Division of Consumer Services

### I. General Powers and Duties

Under administrative direction; interpret, apply, administer and enforce provisions of the Business and Professions Code relating to the Consumer Affairs Act of 1970 to accomplish the following:

- \* Recommend and propose the enactment of legislation necessary to protect and promote the interests of consumers;
- \* Represent consumer interests before federal and state legislative hearings and executive commissions;
- \* Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote consumer interests;
- \* Study, investigate, research, and analyze matters affecting consumer interests;
- \* Hold public hearings, serve subpoenas, take testimony, compel the production of evidence and call upon other state agencies for information;
- \* Propose and assist in the creation and development of consumer education and information programs;
- \* Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services;
- \* Advise the Governor and Legislature on all matters affecting consumer interests;
- \* Exercise and perform other powers and duties as delegated in the name of the Director, subject to such conditions and limitations as the Director may prescribe;
- \* Exercise and perform other functions, powers and duties, such as regulatory review, as may be deemed appropriate to protect and promote the interest of consumers as directed by the Governor or Legislature.

### II. Functions

- \* Endeavor to directly influence the formulation and implementation of public policy to protect and promote the interests of consumers through establishment and maintenance of cooperative relations with the general public, the Legislature, consumer organizations and groups, and public and private agencies.

- \* Formulate and direct policy by utilization of information obtained and foster the understanding of Departmental programs and policies through such cooperative relationships as necessary.
- \* Retain responsibility for the review and approval of proposed projects, overall coordination of efforts, assessment of project progress, and evaluation of project effectiveness in the Complaint Data System Unit and Consumer Liaison, Local Liaison, and Tax Preparer's Programs. Cooperate and coordinate activities with the Assistant to the Director for Southern California.
- \* Review and approve evaluations of staff performance and identification of training needs made by such program managers.
- \* Review and approve all proposed program budgets.
- \* Determine and promote Division policy; assist in determination and promotion of Departmental policy.
- \* Advise and consult Director, Department of Consumer Affairs, and other Departmental managers, of goals, policies, programs and activities of the Division.
- \* Confer with attorneys and administrators on problems requiring policy decisions and legal opinions.
- \* Prepare special correspondence relating to activities, programs, policies, and goals of the Division.
- \* Accomplish or direct the accomplishment of other duties assigned by the Director, Department of Consumer Affairs, as needed to effectively implement those activities mandated to protect and promote the interests of consumers.
- \* Review operational personnel matters for all programs subsequent to exhaustion of appropriate lower level contacts or remedies.

PROGRAM MANAGER  
Staff Services Manager I

Phase I: Start Up, Feasibility Study, Program Design,  
Pilot System

Duties:

- \* Operate under the direction of the Project Director (Chief, Division of Consumer Services). Establish contacts with all prospective user groups and maintain liaison between them and the Department.
- \* Gather all available information regarding studies, designs and operations of similar systems.
- \* Establish steering (advisory) committee containing representatives from diverse, interested prospective user groups, data processing experts, legal counsel and necessary backup staff. Develop agendas. Supervise preparation and dissemination of minutes. Chair meetings. Identify areas of agreement and take necessary action. Assist in the resolution of user disagreements.
- \* Meet individually with users and user groups as necessary to supplement committee input, and to promote use of developed system.
- \* Contract for feasibility study. Actively participate in the study, furnishing data gathered from all available sources. Transmit user needs, objectives, system uses, constraints, etc., as they are formulated in committee meetings to feasibility personnel. Ensure that the alternative selected in the study is compatible with user needs.
- \* Hire program staff. Coordinate with the Data Processing Manager in hiring the data processing personnel. Plan and organize the work of all staff. Directly supervise program staff. Indirectly supervise data processing staff. (program functions).
- \* Work closely with Data Processing Manager and Programmer Analyst to design programs as system evolves.
- \* Establish developmental and operational schedules.
- \* Design forms for recording initial and follow-up complaint data. Develop format(s) for output. Supervise the development of training materials and user instruction and code books.
- \* Design and conduct training sessions for users.

- \* Identify types of data processing equipment necessary to the system. Research available equipment for suitability, performance, cost and delivery schedules. Purchase equipment as necessary.
- \* Develop a plan for the evaluation of the pilot program.
- \* Establish procedures for processing input documents and reviewing and analyzing output.

Phase II: Pilot Evaluation and Modification, Ongoing System

Duties:

- \* With the assistance of the steering committee, evaluate pilot program, determine necessary modifications and ensure implementation, develop additional reports as needed and identify new users for participation in the ongoing program.
- \* Formulate and recommend policies to the Project Director. Implement approved policies.
- \* Seek and act on comments from the users regarding system improvement.
- \* Supervise work-flow of input and output. Review problem documents. Assist users in preparing and using documents.
- \* Monitor usage and inquiry turnaround time.
- \* Review reports and check with users to determine their effectiveness.
- \* Supervise the compilation and dissemination of statistical reports.
- \* Explain and promote system throughout the state.
- \* Prepare or supervise preparation of grant application, quarterly operational reports, monthly and end of period billings, budget changes and program statements.
- \* Make periodic oral and written reports to the Directorate, Department of Finance, Legislative Analyst, and user organizations regarding system progress and status.
- \* Approve and monitor monthly expenditures of both program and data processing units.

- \* Establish measurement criteria and measure program effectiveness regularly.
- \* Formulate methods of alternative funding and act to secure ongoing funds.
- \* Assist data processing staff in modifying programs as necessary.

## DUTY STATEMENT

### JUNIOR STAFF ANALYST

Under the direction of the Program Manager:

- \* Develop training and input materials (charts, graphs, input documents) and train users in the proper use of the system.
- \* Make field trips as necessary to give talks on the program and provide assistance to users. Make judgements and recommend and implement changes where problems exist.
- \* Gather and disseminate, both orally and in writing, factual information requiring full knowledge and understanding of program policies, procedures and constraints.
- \* Make independent decisions regarding propriety of disseminating or withholding certain information. Requires full knowledge and understanding of Federal confidentiality of data and public disclosure laws.
- \* Assume responsibility for all program activities in the absence of the Program Manager, including approval of expenditures, supervision of clerical personnel, problem solving and correspondence.
- \* Research, analyze and prepare statistical reports for the Director, Chief of the Division of Consumer Services, Legislators, Department of Finance, Division Units and system users including geographical and other trend analyses; population versus economic crime level by county, region, etc.; periodic comparisons of prevalent types of crime being practiced within specific product or service categories; current versus necessary levels and allocations of resources; and other reports as necessary.
- \* Research, analyze and prepare early warning "alerts" based on computer generated and other data.
- \* Respond to users' inquiries via terminal inquiry access.
- \* Design organizational and workload graphs and charts. Assist in the review and monitoring of fund and budgetary requirements, and make recommendations for alternative measures when and if necessary. Assist in the preparation of financial and progress reports.
- \* Analyze and tabulate system data to measure program effectiveness. Meet with users to determine if system is meeting their needs.

## DUTY STATEMENT

### STENOGRAPHER RANGE "B"

Under the direction of the Program Manager:

- \* Perform stenographic and clerical work for program and data processing staff.
- \* Maintain appointment calendar for Program Manager.
- \* Make hotel and travel arrangements for all staff, schedule meetings and notify all participants. Make appropriate arrangements for consultants and other visitors to Sacramento.
- \* Type and distribute agenda for advisory committee and other meetings. Prepare and distribute minutes, interpreting, condensing and transcribing from taped meetings.
- \* Develop form and semi-form (insert capability) letters.
- \* Edit input documents for correctness and completeness. Return to or telephone users for corrections as necessary.
- \* Batch documents and forward to data transcription unit.
- \* Assume responsibility for correction of weekly edit.
- \* Check and distribute microfiche and hard-copy reports.
- \* Answer inquiries from users via terminal inquiry access.
- \* Schedule and make arrangements for user talks, training sessions and problem solving and assistance sessions.

## DUTY STATEMENT

### DATA PROCESSING MANAGER I

Under the general direction of the Chief of the Division of Administration:

- \* Plan, organize, direct, coordinate, and control all data processing activities for the Department.
- \* Manage a staff of Systems Analysts, Programmers and Data Guidance/Control personnel.
- \* Coordinate and direct contract data processing services with other state agencies.
- \* Select, hire, organize, and direct personnel to achieve desired objectives through planned training and production to insure maximum efficiency.
- \* Direct the development and maintenance of computer systems and related machine procedures.
- \* Supervise the staff in the maintenance of twelve (12) separate data processing systems consisting of approximately 180 COBOL programs and 50 utility sorts and merges..
- \* Serve as consultant to Departmental administrators and agency executives of forty (40) Boards, Bureaus, and Divisions, on the utilization of data processing services and equipment.
- \* Supervise the compilation of the annual data processing budget.
- \* Explain and analyze the budget with the Fiscal Officer and the Department of Finance.
- \* Supervise the analysis and compilation of feasibility study implementation plans for new or revised data processing services.
- \* Evaluate requests for new or revised data processing services and assign priority schedule to requests.
- \* Perform other duties and accept other responsibilities as directed by the Chief, Division of Administration.



## ASSOCIATE PROGRAMMER ANALYST

Under the coordinated supervision of the Program Manager and Data Processing Manager:

- \* Assist in the development of a feasibility study for the Complaint Data System. Work in close cooperation with users and user groups to determine needs and requirements. Provide technical expertise to steering committee during program development phase.
- \* Analyze work processes and formulate methods to produce desired results for new or revised data processing systems.
- \* Prepare detailed computer program specifications to include input/output formats, special processing requirements, definition of required tables, explanations of complex logic problems and special conditions. Present information both orally and in writing to all applicable parties.
- \* Prepare complex computer programs including complete testing. Provide data for the Data Processing Technician to allow compilation of required job control language and procedures in order to use computer programs in a production environment.
- \* Plan, organize and direct the work-flow of the Data Processing Technician.
- \* Prepare special studies of data processing systems and write descriptive technical reports.
- \* Maintain a current knowledge of data processing equipment and special purpose software for possible application within the system. Assist the Program Manager in identifying and obtaining the necessary equipment.
- \* Maintain a current knowledge of computer output microfilm and microfiche capabilities and limitations.
- \* Prepare time and cost estimates for new or revised data processing applications. Assist in the preparation of the annual budget.
- \* Assist the Program Manager in the development of input and followup documents, output report formats, and user training and problem solving techniques.
- \* Review analytical studies and surveys to assist management in decision making processes. Formulate new procedures and program alternatives as necessary to accommodate existing and new users.
- \* Assist the Data Processing Manager in an administrative capacity. Coordinate and direct all complaint data system activities in the absence of the Manager.

\* Make field trips as necessary to explain technical information to the users and user groups; answer questions and resolve problems.

\* Assist in pilot program evaluation, and development and evaluation of measurement criteria.

## DUTY STATEMENT

### DATA PROCESSING TECHNICIAN

Under the direct supervision of the Associate Programmer Analyst:

- \* Prepare procedural flow charts and work orders, technical user instructions, batch transmittal forms, and procedures to ensure user understanding and proper use of data processing systems.
- \* Prepare and maintain job control language for production computer operations and special purposes.
- \* Receive and log job requests. Check output for accuracy and quality. Maintain workload statistics to ensure accuracy of projected schedules and costs.
- \* Prepare and maintain data guidance operations and procedures, and computer processing and report production schedules.
- \* Initiate computer jobs via a video data terminal.
- \* Analyze computer processing problems and initiate corrective action. Consult with computer operators, programmers and analysts as necessary to resolve complex problems.
- \* Assist Associate Programmer Analyst in the evaluation and modification of programs, input, output, user instructions and code books; and in the development, processing and evaluation of special reports.

ALLOCATION OF COSTS TO MAJOR PROGRAM COMPONENTS

I. FINANCIAL AND PROGRESS REPORTS  
OTHER ADMINISTRATIVE ACTIVITIES

|                                                          |                |                     |
|----------------------------------------------------------|----------------|---------------------|
| Personal Services                                        |                |                     |
| Project Director                                         | \$ 1,534 x 10% | \$ 153              |
| Program Manager                                          | 20,928 x 10%   | 2,093               |
| Data Processing Manager                                  | 2,299 x 5%     | 115                 |
| Stenographer                                             | 9,444 x 5%     | 472                 |
| Sub Total                                                |                | <u>\$ 2,833</u>     |
| Staff Benefits @ 24%                                     |                | 680                 |
| Total Personal Services                                  |                | <u>\$ 3,513</u>     |
| Operating Expenses                                       |                |                     |
| General Expense                                          | \$ 2,968 x 10% | \$ 297              |
| Postage (reports, letters)                               | 3,000 x 1%     | 30                  |
| Telephone                                                | 2,400 x 5%     | 120                 |
| Rent                                                     | 6,870 x 2%     | 137                 |
| Administrative Pro-rata @ 5%<br>of total costs (\$4,097) |                | 205                 |
| Total Operating Expenses                                 |                | <u>\$ 789</u>       |
| Total Costs                                              |                | <u><u>4,302</u></u> |

II. PILOT PROGRAM

|                              |                |                 |
|------------------------------|----------------|-----------------|
| Personal Services            |                |                 |
| Project Director             | \$ 1,534 x 60% | \$ 920          |
| Program Manager              | 20,928 x 43%   | 8,999           |
| Data Processing Manager      | 2,299 x 60%    | 1,379           |
| Associate Programmer Analyst | 19,068 x 50%   | 9,534           |
| Jr. Staff Analyst            | 11,028 x 48%   | 5,294           |
| Data Processing Technician   | 12,576 x 50%   | 6,288           |
| Stenographer                 | 9,444 x 47.5%  | 4,486           |
| Temporary Help               | 6,750 x 75%    | 5,062           |
| Sub Total                    |                | <u>\$41,962</u> |
| Staff Benefits @ 24%         |                | 10,071          |
| Total Personal Services      |                | <u>\$52,033</u> |

Travel

|                                                                                                                                         |                                                          |          |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|----------|
| Program Evaluation and Modification,<br>Assistance to Users                                                                             |                                                          |          |
| Program Manager, Programmer Analyst,<br>Jr. Staff Analyst (Included in Promotion,<br>training, evaluation and problem solving<br>trips) |                                                          |          |
|                                                                                                                                         | 51 trips (\$6,840) - 12%<br>for special reports function | \$ 6,019 |
| Steering Committee                                                                                                                      |                                                          |          |
|                                                                                                                                         | 6 trips 2,790 x 60%                                      | 1,674    |

Program Manager, Programmer Analyst  
Wisconsin Trip  
Total Travel

920  
\$ 8,613

Operating Expenses

|                              |                |                  |
|------------------------------|----------------|------------------|
| General Expense              | \$ 2,968 x 40% | \$ 1,187         |
| Printing (all)               | 2,000 x 65%    | 1,300            |
| Postage (all)                | 3,000 x 67%    | 2,010            |
| Telephone                    | 2,400 x 49%    | 1,176            |
| Rent                         | 6,870 x 44%    | 3,023            |
| Data Processing Services:    |                |                  |
| Video Unit                   | 5,700 x 50%    | 2,850            |
| Disc Storage & Spindle       | 1,740 x 36%    | 626              |
| Video Inquiries              | 2,400 x 50%    | 1,200            |
| Microfiche                   | 11,560 x 34%   | 3,930            |
| Computer Services            | 26,350 x 45%   | 11,857           |
| Data Transcription           | 21,250 x 58%   | 12,325           |
| Administrative Pro-rata @ 5% |                |                  |
| of total costs (\$104,090)   |                | 5,205            |
| Total Operating Expenses     |                | <u>\$ 46,689</u> |

Equipment

|                                                                   |                |                  |
|-------------------------------------------------------------------|----------------|------------------|
| Microfiche Readers                                                |                | \$ 1,500         |
| Supply and File Cabinets, Work Tables,<br>Bookcase, Miscellaneous | \$ 1,150 x 40% | 460              |
| Total Equipment                                                   |                | <u>\$ 1,960</u>  |
| Total Costs                                                       |                | <u>\$109,295</u> |

III. INCLUSION OF FIVE (5) NEW USERS  
INTO DEVELOPED PROGRAM

Personal Services

|                              |                |                  |
|------------------------------|----------------|------------------|
| Project Director             | \$ 1,534 x 25% | \$ 384           |
| Program Manager              | 20,928 x 35%   | 7,325            |
| Data Processing Manager      | 2,299 x 25%    | 575              |
| Associate Programmer Analyst | 19,068 x 40%   | 7,627            |
| Jr. Staff Analyst            | 11,028 x 40%   | 4,411            |
| Data Processing Technician   | 12,576 x 42%   | 5,282            |
| Stenographer                 | 9,444 x 39.5%  | 3,730            |
| Temporary Help               | 6,750 x 25%    | 1,688            |
| Sub Total                    |                | <u>\$ 31,022</u> |
| Staff Benefits @ 24%         |                | 7,445            |
| Total Personal Services      |                | <u>\$ 38,467</u> |

Travel

Promotion and Selection, Needs Assessment, Training  
Program Manager, Jr. Staff Analyst  
(Included in promotion and training trips)

10 trips (\$950) - 12% for special reports  
function \$ 836

Steering Committee  
6 trips \$2,790 x 25% 698  
Total Travel \$ 1,534

Operating Expenses

|                              |                |                  |
|------------------------------|----------------|------------------|
| General Expense              | \$ 2,968 x 40% | \$ 1,187         |
| Printing (all)               | 2,000 x 30%    | 600              |
| Postage (all)                | 3,000 x 30%    | 900              |
| Telephone                    | 2,400 x 35%    | 840              |
| Rent                         | 6,870 x 43%    | 2,954            |
| Data Processing Services:    |                |                  |
| Video Unit                   | 5,700 x 50%    | 2,850            |
| Disc Storage & Spindle       | 1,740 x 59%    | 1,027            |
| Video Inquiries              | 2,400 x 50%    | 1,200            |
| Microfiche                   | 11,560 x 66%   | 7,630            |
| Computer Services            | 26,350 x 50%   | 13,175           |
| Data Transcription           | 21,250 x 42%   | 8,925            |
| Administrative Pro-rata @ 5% |                |                  |
| of total costs (\$91,557)    |                | 4,578            |
| Total Operating Expenses     |                | <u>\$ 45,866</u> |

Equipment

|                                                                   |                |                         |
|-------------------------------------------------------------------|----------------|-------------------------|
| Microfiche Printer/Readers                                        |                | \$ 9,750                |
| Supply and File Cabinets, Work Tables,<br>Bookcase, Miscellaneous | \$ 1,150 x 45% | 518                     |
| Total Equipment                                                   |                | <u>\$ 10,268</u>        |
| Total Costs                                                       |                | <u><u>\$ 96,135</u></u> |

IV. DEVELOPMENT AND PREPARATION OF SPECIAL REPORTS

Personal Services

|                              |               |                 |
|------------------------------|---------------|-----------------|
| Project Director             | \$ 1,534 x 5% | \$ 77           |
| Program Manager              | 20,928 x 12%  | 2,511           |
| Data Processing Manager      | 2,299 x 10%   | 230             |
| Associate Programmer Analyst | 19,068 x 10%  | 1,907           |
| Jr. Staff Analyst            | 11,028 x 12%  | 1,323           |
| Data Processing Technician   | 12,576 x 8%   | 1,006           |
| Stenographer                 | 9,444 x 8%    | 756             |
| Sub Total                    |               | <u>\$ 7,810</u> |
| Staff Benefits @ 24%         |               | 1,874           |
| Total Personal Services      |               | <u>\$ 9,684</u> |

Travel

Needs Assessment and Development

Program Manager, Programmer Analyst,  
Jr. Staff Analyst

(Included in promotion, training and problem  
solving trips)

61 trips \$7,790 x 12% \$ 934

Steering Committee

6 trips 2,790 x 15% 419

Total Travel \$ 1,353

Operating Expenses

General Expense 2,968 x 10% \$ 297

Printing (reports,  
instructions) 2,000 x 5% 100

Postage (reports) 3,000 x 2% 60

Telephone 2,400 x 11% 264

Rent 6,870 x 11% 756

Data Processing Services:

Disc Storage & Spindle 1,740 x 5% 87

Computer Services 26,350 x 5% 1,318

Administrative Pro-rata

@ 5% of total costs (\$14,541) 727

Total Operating Expenses \$ 3,609

Equipment

Electronic Calculator \$ 450

Supply and File Cabinets, Work Tables,  
Bookcase, Miscellaneous 1,150 x 15% 172

Total Equipment \$ 622

Total Costs \$15,268

Total Program \$ 225,000

PROGRAM ASSUMPTIONS

Since the feasibility study has not yet been completed, nor has it been determined how the program will be designed and precisely what information will be contained in the data bank, much of the program narrative and budget deals with what we think will occur. Time frames are established as we think the project will progress.

The following list of assumptions is appended in order that the reader may have a clearer picture of program activities and the criteria used in determining costs.

1. Pilot program and evaluation will extend from August 1, 1977 through January 31, 1978. During that period, some work will be done relative to adding new users and developing special reports.
2. New users (5) will be incorporated into the developed system, including continuation of pilot users (15) covering the period February 1, 1978 through July 31, 1978.
3. Complaint volume will be as follows:

|            |        | <u>Cumulative Total</u> |
|------------|--------|-------------------------|
| 1st month  | 22,500 | 22,500                  |
| 2nd month  | 2,500  | 25,000                  |
| 3rd month  | 2,500  | 27,500                  |
| 4th month  | 2,500  | 30,000                  |
| 5th month  | 2,500  | 32,500                  |
| 6th month  | 2,500  | 35,000                  |
| 7th month  | 6,250  | 41,250                  |
| 8th month  | 3,750  | 45,000                  |
| 9th month  | 3,750  | 48,750                  |
| 10th month | 3,750  | 52,500                  |
| 11th month | 3,750  | 56,250                  |
| 12th month | 3,750  | 60,000                  |

4. Input and follow-up documents will be standardized for all users, and will contain mandatory and optional categories.
5. Data transcription will be done by the selected data center or its affiliate, rather than the program or internal data processing staff.
6. Although reports will not be issued more often than once a week, daily batch update will occur in order for the program staff to respond to telephone inquiries.
7. Microfiche reports containing all complaint data sorted alphabetically by respondent and by case number will be distributed weekly. Hard copy reports will be issued monthly (4), quarterly (3), and yearly (2). Special reports (3 - 6) will be issued on demand. (approximately 2 per user per year).



Examples of Reports:

1. Monthly

- \* List of respondents having five (5) or more complaints during the last twelve months.
- \* Analysis of complaints received---entire file (All categories containing totals and percentages).
- \* Analysis of complaints received---user's portion. (Same breakdown).
- \* Consent order and judgement file.

2. Quarterly

- \* Complaints made by county residents.
- \* Complaints against county located respondents.
- \* Transient crew report.

3. Annually

- \* Report of open cases.
- \* All complaint data - entire file.

4. Special Reports

- \* Statistical analysis by industry.
- \* Statistical analysis by type of problem within a given industry.

COOPERATIVE CONSUMER PROTECTION AGENCY  
COMPLAINT DATA SYSTEM

Operational Report

for the period ended October 31, 1976

# COOPERATIVE CONSUMER PROTECTION PROGRAM

## COMPLAINT DATA SYSTEM

Report of Activities and Accomplishments Relating to the Development and Implementation of an Automated Consumer Complaint Data System for the period August 1, 1976 through October 31, 1976.

The program was launched officially on August 8, 1976, when Legislative and Finance approval were received.

Since this is a new program in California, various system studies and reports from agencies throughout the Country were gathered and analyzed for incorporation into a feasibility study. The only "working" system we are aware of with historical background is the automated data bank developed and implemented by the State of Wisconsin.

After contracting with the Department of General Services for a feasibility study which will commence November 15, 1976, a trip was made by the Program Manager to Madison, Wisconsin to gather information on and purchase (reproduction costs only) their system, which will be studied by the staff and the Department of General Services for possible adaptation.

In an attempt to gather preliminary information from the prospective users of the system regarding the kinds of data to be input, questionnaires have been sent to the Office of the Attorney General, County district attorney and consumer protection offices, and boards and bureaus within the Department of Consumer Affairs.

A steering or advisory committee (no legal authority) has been established which includes a representative from each potential user group, and the first meeting will be held in early December, 1976. At that time, completed questionnaires will be evaluated and recommendations will be made for inclusion in the feasibility study.

Recruitment for a program manager commenced with the approval of the grant award. Planning, organization and fiscal skills, as well as a basic knowledge of data processing were sought in the interview process. June Lomax was selected as the program manager effective October 1, 1976. Two other authorized positions have been filled: Clerk-Typist effective October 25, 1976, and Data Processing Technician (Control Clerk) effective November 2, 1976. Recruitment for a programmer analyst is now under way, and it is expected that the position will be filled in November, 1976.

The remaining Clerk Typist position will not be filled until the workload warrants increased staff.

Equipment ordered to date includes only office furniture and a typewriter. All equipment was ordered from vendors under State contract, and none of it has been received. The office is currently using equipment borrowed, at no charge, from the Department.

Grant funds expended for the period ending September 30, 1976 total \$418, with unpaid obligations of \$360. Costs for November, 1976 are being compiled and will be submitted to OCJP upon completion. Grant funds awarded include \$225,000 of Federal funds and \$25,000 of State match.

The Department had originally intended to modify and test the Wisconsin system concurrent with conducting the feasibility study. While attempting to secure approval from the Department of Finance E.D.P. Section to contract for the necessary computer services, a recommendation was made by the E.D.P. Section, and agreed to by the Department, to complete the feasibility study before attempting to make any computer/program modifications. As a result, the program schedule for the grant year ending July 31, 1977 has been adjusted as follows:

| <u>FUNCTION</u>                                  | <u>COMPLETION DATE</u> |
|--------------------------------------------------|------------------------|
| Initial review and purchase of "Wisconsin Plan." | October 30, 1976       |
| Establishment of criteria for feasibility study  | October 30, 1976       |
| Feasibility study report                         | February 15, 1977      |
| "Wisconsin Plan" modified and on-line            | April 10, 1977         |
| Program "debugged" and ready for pilot input     | May 15, 1977           |
| Initial evaluation of pilot program              | July 30, 1977          |

Note: The schedule is tentative and assumes that the modification of the Wisconsin system will prove to be the best alternative. Creation of a new system will extend the commencement of a pilot program by several months.

The Division of Consumer Services, which houses the grant project, has entered into two (2) interagency agreements as follows:

1. Department of General Services, Data Processing Section \$17,250.

In addition to conducting a feasibility study, the person assigned by the Department of General Services will also assist the Division in the creation or modification, testing, and pilot phases of the developmental process. The amount of the agreement exceeds that approved in the grant award by 15%, as allowed according to Section 10 of the OCJP Standard Grant Award Conditions.

We were notified by OCJP that this agreement was exempt from the special contractual pre-review referred to in a memorandum from Omer Lentz, Procurement Review Officer, dated June 28, 1976. We are enclosing a copy of the agreement for your information.

2. Department of Consumer Affairs - Division of Administration Data Processing Unit, \$119,245.

This agreement contains the data processing costs as outlined in the grant award. Since it is not a third party contract, it is exempt from the approval process as outlined in Section 21(b) of the OCJP Standard Grant Award Conditions. The agreement (copy enclosed) merely ensures compliance with required procedures.

To date, the following constraints and possible problem areas have been identified:

1. Federal and State personal privacy and security of data laws.
2. Public disclosure requirements.
3. Necessity to create a new system as opposed to modification of an existing system.
4. Bringing whole user population into the system.
5. Consistency among users regarding input documents and reports.
6. Cross-referencing of computer programs to capture "A/K/A's", "D/B/A's", methods of operation and differences in respondents' business names.
7. Future funding and cost/benefit of program.

The feasibility study and concurrent analyses will address each of these issues, and identify additional areas of concern.

