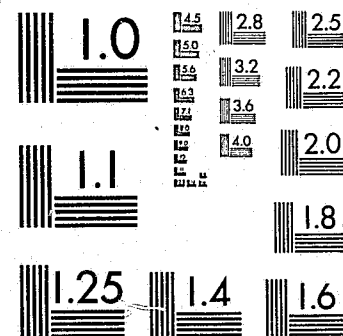


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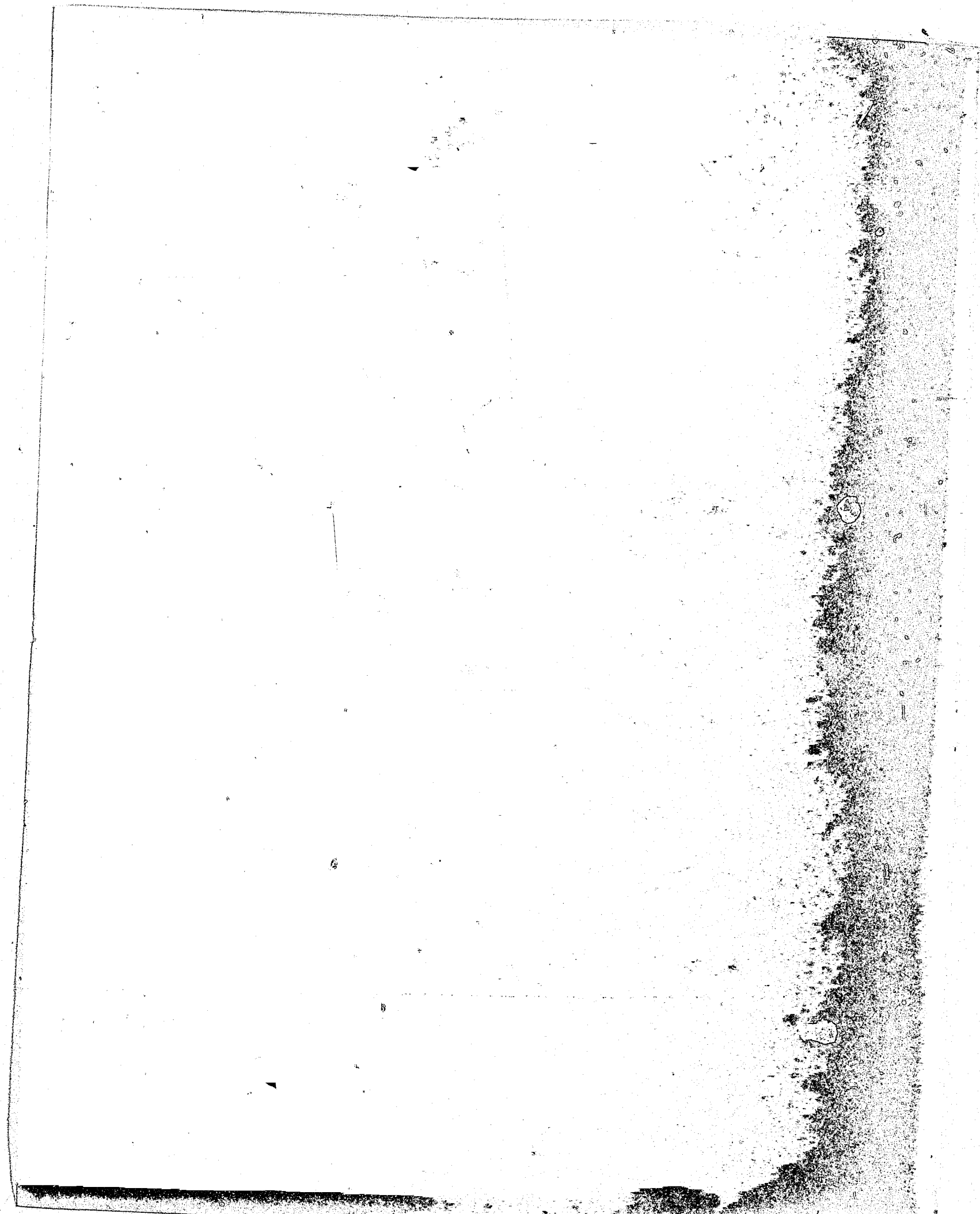
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ANNUAL REPORT

JANUARY 1980 - DECEMBER 1980

GEORGIA ORGANIZED CRIME PREVENTION COUNCIL (GOCPC)

The Georgia Organized Crime Prevention Council was statutorily created by the 1980 Georgia General Assembly, effective July 1, 1981 (see Appendices). Prior to the passage of Georgia Law No. 875 of the 1980 Georgia Laws, the Council acted under the authority of executive orders of the Governor issued in 1969, 1971, 1975 and 1979.

The 1979 executive order assigned the Council to the Georgia Board of Public Safety for administrative purposes and ordered that the Council be composed of not more than eight persons, who by virtue of their training or experience would be knowledgeable in the prevention and control of organized crime, and that one of these persons shall be a member of the Board of Public Safety, who shall be designated by the chairman of the Board of Public Safety.

Section 5(b) of the 1980 Georgia Law No. 875 mandates the functions and duties of the Council to be the following:

- (1) Creation, guidance and counseling of the Georgia State Intelligence Network (GSIN);
- (2) Coordination of joint federal, state and local intelligence

conferences;

- (3) Providing organized crime and intelligence training courses;
- (4) Preparation of annual reports and annual confidential reports on Georgia's organized crime problem;
- (5) Development of an annual organized crime legislation package;
- (6) Coordination of international, national and statewide special projects to combat organized crime;
- (7) Providing advice and counsel to the Governor; and
- (8) Informing the public of the menace of organized crime and the threat it poses to the citizens of Georgia.

The Council is not an investigative agency and does not exercise any power, undertake any duty or perform any function presently or hereafter assigned by law to the Governor, the Attorney General or any prosecuting or investigatory agency at the state or local level.

The Council is a body that develops and coordinates strategies and plans to attack and control organized crime statewide.

COUNCIL MEMBERSHIP

In 1980 the Council consisted of the following persons: F.D. Hand, Jr., Director, DeKalb County Department of Public Safety; Jack E. Mallard, Assistant District Attorney, Atlanta Judicial Circuit; Beverly E. Ponder, Director, Georgia Bureau of Investigation; Harold P. Craft, Jr., Chief, Marietta Police Department; Earl D. Lee, Sheriff, Douglas County; George W.

Ward, Chief, Elberton Police Department; William S. Lee, District Attorney, Dougherty County Judicial Circuit; and Madison Greeley, Jr., Deputy Sheriff, Bibb County.

F.D. Hand continued to serve as Chairman, and Assistant District Attorney Jack Mallard continued as Vice Chairman.

COUNCIL STAFF

James W. Foughner continued to serve as the Executive Director of the Council. As such, he functions as full-time staff to provide support and develop programs for the Council. Mr. Foughner is a graduate of the University of Georgia Law School and has served as Executive Director since January, 1972. Mr. Foughner is on the executive committee of Project Leviticus, a seven-state national and international investigation of organized crime in our nation's coal industry. He is a frequent lecturer on organized crime and is a graduate of several Department of Justice organized crime training schools.

Ron Irvin continued to serve as the GSIN Coordinator. Mr. Irvin is a seventeen-year veteran of law enforcement, having served as a Major of Detectives in the Griffin, Georgia, Police Department, and with the Georgia Bureau of Investigation.

Mary Dettlinger continued to serve as the Council secretary.

The Council is administratively attached to the Georgia Board of Public Safety. Staff address and telephone number: P.O. Box 1456, Atlanta, Georgia 30371; (404) 656-1770.

GEORGIA STATE INTELLIGENCE NETWORK (GSIN)

The Georgia State Intelligence Network is the hub of our statewide organized crime prevention and intelligence effort and is the vehicle that provides the intelligence data on organized criminal activity in Georgia.

Membership in the Georgia State Intelligence Network in 1980 totaled thirty-seven:

Georgia Bureau of Investigation
Georgia Department of Revenue
Georgia Insurance Department
Georgia Secretary of State's Office
State Fire Marshal's Office
Albany Police Department
Americus Police Department
Athens Police Department
Augusta Police Department
Bibb County Sheriff's Office
Brunswick Police Department
Chatham County District Attorney's Office
Chatham County Police Department
Clayton County Police Department
Cobb County Police Department
Cobb County Sheriff's Office
Columbus Police Department
Conyers Police Department
DeKalb County Police Department
East Point Police Department
Fulton County District Attorney's Office
Fulton County Police Department
Gainesville/Hall County Vice, Intelligence and Narcotics Unit
Glynn County Police Department
Gwinnett County Police Department
LaGrange Police Department
Macon Police Department
Marietta Police Department
Muscogee County Sheriff's Office
Richmond County Sheriff's Office
Rome Police Department
Savannah Police Department
Tifton Police Department
Thomasville Police Department
Valdosta Police Department
Warner Robins Police Department
Winder Police Department

Admission to membership is covered by Article IX of the Council bylaws. To paraphrase, this article states that admission to membership is subject to the approval of the Council by a

unanimous vote of the members voting. The Council considers in its decision the size of the applicant agency and the extent of its organized crime problem, the desirable size of the Network, and the integrity and credibility of the applicant among law enforcement and the community in general. The applicant agency completes a GSIN department membership application form which includes, among other things, a summary of the organized crime problem in the applicant agency's jurisdiction, the organization and functions of the applicant agency's intelligence unit, names of agents in three or more intelligence units that the applicant agency has contacted recently, and a letter of sponsorship from an existing member agency.

Section Two of Article IX says that membership is not a matter of right, and suspension may be voted on by the Council at a regular or special meeting, following notice to the member agency of the scheduled action, with an invitation to appear and defend against the action proposed. The Council may suspend for any reason it feels is in the best interest of the member agency or the Network, keeping in mind that mutual trust and confidence among members of the Network are essential to a successful intelligence operation. A routine suspension occurs upon a change in command involving either the intelligence unit commander or the head of the organization, such change being subject to the approval of the Council.

In addition to Article IX of the Council bylaws, there is a four-part policy and procedures statement that governs the Georgia State Intelligence Network. Part One governs the organization and purpose and states that the Network shall be composed of law enforcement intelligence officers of proven integrity and ability, representing agencies that maintain a united and dedicated interest in combating organized crime. Its purpose is to assist in the collection, evaluation, preservation and dissemination of intelligence information concerning organized criminal activity in the State of Georgia, with a common and continuing goal of developing information resulting in the apprehension of persons engaged in such organized criminal activity.

Section Two governs membership and says that membership shall be open to local police departments, sheriffs' offices, state police organizations and approved bonafide investigative agencies. It provides that each member agency shall have a representative and an alternate representative, who shall be appointed by the chief executive of the member agency and approved by the executive committee of the Network, after a thorough background check. The representative is charged with the responsibility of gathering criminal intelligence, maintaining the GSIN records and handling correspondence and requests for assistance from other GSIN members. Any new member of the Network

will automatically be placed on probation. At the end of six months the executive committee will review and evaluate the new member's status and, upon approval by the Council, make the appointment permanent.

Section Three deals with officers and provides for the election of a five-man board from among the designated representatives.

Section Four has to do with the disposition of GSIN records

ORGANIZED CRIME DEFINITION

The Council's definition of organized crime is: Any group of persons collaborating or conspiring to engage in, on a continuing basis, criminal activity as a significant source of income or livelihood, or aiding or abetting the violation of the laws of this state relating to prostitution, lotteries, gambling, illegal drug distribution, illegal trafficking in liquors, illegal distribution of deadly weapons, theft offenses, extortion, arson, lending money at usurious rates of interest, counterfeiting, bribery of law enforcement officers and other public officers, or any other

and states that information accumulated by the Georgia State Intelligence Network shall remain the property of GSIN, and all records of such information held by any member agency, when said member is suspended or terminated, shall immediately be delivered to or picked up by the GSIN Coordinator or a designated person appointed by the Chairman of the Council or the executive board of GSIN.

criminal offenses for profit.

It is just as important to define what organized crime is not. It is not the Mafia, per se. The Mafia is a part of organized crime or, if you would, a part of the whole. But it is not the most serious part of organized crime that still exists in our state today. Our most serious concern in the area of organized crime is the local home-grown variety: local organized criminals and their associates who are organized and engage in the organized criminal activities cited in our definition of organized crime.

OVERVIEW OF ORGANIZED CRIME IN GEORGIA

PREFACE

The following is a general overview of organized crime activities within the State of Georgia for the period of January through December, 1980. The generalizations and projections contained in this narrative summary are based upon intelligence data collected and evaluated by the members of the Georgia State Intelligence Network.

During 1980 GSIN agencies targeted 755 major organized crime figures for intensive investigation. Georgia's organized crime problem for the past year continued to be nontraditional in nature, with little influence exerted by the nationally recognized families or syndicates.

ILLEGAL DRUG TRAFFIC

GSIN agencies report that drug trafficking has increased in all areas of the state and significant time and manpower are being expended to combat the problem. Drug and gambling operations are interconnected and monies derived from both are being funneled into legitimate business operations. It is also significant to note that a large percentage of crimes including homicide are narcotics and drug related.

Georgia continues to be the major operational site for organized narcotics smuggling groups bringing in contraband from South America, the Caribbean and Mexico. Intelligence information and seizures also indicate that clandestine laboratories continue

to operate in Georgia and that domestic marijuana is now being grown in many areas of the state.

Local drug units working independently and in cooperation with each other, the Georgia Bureau of Investigation and federal agencies such as Customs, Drug Enforcement Administration and Internal Revenue Service have had an impact on the problem. However, while 1980 seizure figures are higher than in previous years it is estimated that only five to ten percent of the narcotics traffic results in arrest and prosecution. Law enforcement agencies are hindered in their efforts because of Georgia's coastal location and the large number of air strips and deserted flat areas of land. The coastal estuaries and rivers are ideal locations for water smuggling operations. Airplanes land regularly at clandestine locations in the state to unload cargoes of marijuana, cocaine, methaqualone and other narcotics such as hashish, amphetamines, phenacyclidine, MDA and LSD.

Drug arrests in 1980 included hard narcotics violators as well as violators of marijuana, pills, etc. Four hundred fifty-five key individuals were indentified as controlling the flow of narcotics within and through the state. It is estimated that the street value of narcotics flowing through Georgia in 1980 was approximately \$6 billion. Georgia ranked third in the nation in 1980 behind the States of Florida and Texas in drug seizures. Drug trafficking continues to be the most serious organized crime operation in Georgia and the primary source of revenue for organized crime.

GAMBLING

Commercial gambling continues to be one of the major sources of income for organized criminals in Georgia. Gambling profits trailed only drug trafficking profits as a source of revenue for organized crime operatives and, in fact, gambling and drug operations are interconnected. Monies derived from these two main sources of income are funneled into legitimate business operations. Gambling revenues for 1980 are estimated at \$586 million. A total of 264 major gamblers were identified during the past year. The most profitable forms of gambling continue to be sportsbetting and lottery. High stakes poker games, casino type operations and bolita are also lucrative types of gambling and constitute the main gambling activities in some areas of the state. Profits derived from gambling are used to finance drug smuggling activities and are invested in legitimate businesses such as night clubs, retail liquor stores, restaurants and real estate. Local gamblers are known to have connections to other cities, counties and states, but it has not been determined that there is a structured organization controlling a majority of the gambling activity. Many of the lottery games are older, well-established operations that have not changed to any appreciable extent over the past few years. Much of the sportsbetting activity is concentrated around industrial plants, office buildings and government complexes and also has remained constant for the past few years. A lack of manpower to investigate gambling operations and public apathy are the main reasons for this status quo situation.

PORNOGRAPHY

Pornography was a lesser crime problem in some areas of the state in 1980 than in previous years because many communities have passed laws prohibiting retail sales of x-rated photographs, movies and reading materials. There continue to be connections between pornography operations and narcotics operations, and pornography operations and prostitution operations. The primary activity is located in the metropolitan Atlanta area, with many principals controlling pornography operations in the smaller cities. Intelligence information also indicates that pornography operations in Georgia are associated with La Cosa Nostra (LCN) families in other parts of the country. These ties consist of dealers in Georgia receiving merchandise to distribute from LCN families outside of the state. In some cases LCN families are paid so that Georgia pornographers can distribute in their areas. Pornography revenue in Georgia is estimated to be several million dollars for 1980.

ORGANIZED AUTO THEFT

Motor vehicle theft accounts for a large percentage of unrecovered stolen property in Georgia, and some jurisdictions reported sizeable increases in vehicle theft in 1980. Auto theft

rings in various parts of the state use diverse methods of operating. Large auto theft rings bring stolen motors and transmissions by the trailer load into Georgia from northeastern seaboard states. Others run chop-shop operations, selling the parts at junkyards and auto parts salvage centers. Vans, Lincoln Continentals and other high-priced vehicles are the main targets of some groups, who sometimes steal to fill an order for a particular vehicle. One ring switched ID plates and title papers from salvaged autos to stolen imported vehicles and ran the stolen cars through sales.

MAJOR THEFT AND FENCING

Fencing of stolen goods was a major crime problem in 1980. Most of the new fencing operations involved gold and silver stolen in residential burglaries, and many jurisdictions reported large increases in such burglaries, at rates up to 100 percent. Besides residential and other burglaries, large-scale thefts through the use of fraudulently obtained credit cards, armed robberies for such high-ticket items as fur coats, and organized shoplifting made fencing a profitable business in 1980.

At least one burglary ring had ties to organized crime figures in another state. These figures have moved to Georgia and are operating legitimate businesses as well as running a major drug trafficking operation between Georgia and other states. A shoplifting ring centered in southeast Georgia extends its operations into neighboring states. In some areas of the state there are groups who work full time shoplifting and stealing from the backs of trucks and loading docks. These people are often drug addicts whose habits can cost from \$300 to \$600 per day and, in order to support their drug needs, steal upwards from \$1000 worth of merchandise a day. The stolen items are then sold on the street for approximately one-third of the retail value and on many occasions the stolen goods are traded for heroin or cocaine.

LOAN SHARKING

Loan sharking activity exists to some degree in Georgia but not on the scale of the stereotyped "loan shark" operation.

PROSTITUTION/WHITE SLAVERY

Organized prostitution/white slavery operations may be found throughout the state, primarily in metropolitan locations. The traditional pimp-prostitute situation usually involves one pimp or procurer and two to five females. In 1980 there were some successful felony prosecutions of pimps for pandering by compulsion. However, much of the street level prostitution is not organized and the women involved operate independently, usually around hotels, motels and truck stops. An increase in escort services as fronts for prostitution has been reported and the

operators often have connections to drug trafficking and gambling operations. Call girl and escort service operations are the primary types of prostitution in the metropolitan areas. In an area with two prostitution operations, one is mostly local, while the other involves flying in professional prostitutes from Chicago, New York or other major cities to entertain visiting clients from other states and foreign countries. In another area, two adult book stores and a gay night club are connected to an adult motel that shows pornographic movies on a closed circuit television system. Male and female prostitutes frequent this motel, and some patrons have been the victims of blackmail by use of a two-way mirror. A military base has an influx at the first of the month of prostitutes who work out of bars and hotels, and as streetwalkers. Male prostitution is a problem that most frequently involves groups of young boys between the ages of 12 and 18, who hire themselves out to older male homosexuals.

POLITICAL CORRUPTION

During the past year thirty-six investigations involving politicians and government officials were conducted. There have been nine indictments and four convictions. Other cases are still pending. It is possible that political corruption from drug monies will increase as smugglers become more sophisticated and unlimited funds are available to corrupt law enforcement officers and public officials.

WHITE COLLAR CRIME AND COMMERCIAL FRAUD

The year 1980 resulted in many various types of white collar crime investigations conducted. These investigations focused on crude oil investments, Ponzi schemes, arbitrage investment programs, greeting cards, rack jobbers, international currency dealers, giant screen television marketing programs, vending machines, food co-ops, travel networks, corporate notes and

LOCALS TO HELP LOCALS PROJECT (LHL)

This program enables a local law enforcement agency anywhere in the State of Georgia to request and receive manpower and equipment necessary to carry out an undercover or other special project in its jurisdiction. The program conceived by Governor Busbee and announced at the Governor's news conference on Thursday, April 3, 1980, permits the greatest utilization of our law enforcement manpower statewide and signifies the historic degree of cooperation and coordination that exists among our local law enforcement agencies. The program was endorsed by the officers of the Georgia Police Chiefs' Association and the Georgia Sheriffs' Association. During the period of April-August, 1980, a total of eighty agents were contributed from forty police departments and sheriffs' agencies throughout the state. The Georgia Organized Crime Prevention Council, the coordinating agency for the Locals to Help Locals Project,

bonds, real estate investments, gold mining investments, treasury hunts, and regulatory investigations of registered dealers, salesmen and issuers of securities. The amount of loss from securities related violations appears to be increasing each year. The dollar computations will probably exceed \$9 million. This figure includes \$3,200,000 involved in coal investments whose principals are being prosecuted in the State of New York. The loss computation includes victims of cases investigated within and outside the State of Georgia.

INFILTRATION OF LEGITIMATE BUSINESSES

Georgia's nightclub industry continues to be the most popular area for investment of organized crime revenue. During 1980 drug and gambling revenues were also invested in real estate, restaurants, liquor stores, bonding companies, modeling and escort services, hotels and motels. Organized crime revenue has become exceedingly more difficult to trace because of increased investments in hidden assets such as airplanes, boats, houses and land.

ARSON

Intelligence information indicates that insurance fraud motivated arson and its connection with organized crime rings is a significant problem in the larger cities and counties of the state, and will if the economy continues on its present course commence spreading more rapidly to rural areas that are in close proximity to the larger populated areas.

Arson fires caused an estimated \$60 million property damage loss in Georgia in 1980. Most of the losses were borne by insurance companies.

Arson is one of the most difficult crimes to prove, with lower clearance rates than any other major crime category.

maintains this confidential list of names of agents and their specialties. The Council identifies and selects the necessary agents upon request of a receiving agency and will provide the receiving agency and the selected agents the necessary training (see Training section of this report) and the necessary sophisticated electronic equipment to carry out their assignments. In addition, the Organized Crime Prevention Council has secured a liability insurance policy to cover the agents selected to participate in this project. The agents are considered temporary state employees during the course of their participation in LHL and the liability policy is secured through the Department of Administrative Services, State of Georgia, Insurance and Hazard Reserve Fund. This liability insurance policy is made possible by authority of the following act:

ACT AUTHORIZING SELF-INSURANCE OF STATE AGENCIES AMENDED.

Ga. Laws 1980
No. 876 (Senate Bill No. 411).
AN ACT

To amend an Act providing for programs of liability insurance or contracts of indemnity for State agencies, approved March 30, 1977 (Ga. Laws 1977, p. 1051), as amended, so as to provide that such programs may be extended to certain law enforcement officers and certain employees of district attorneys; to provide the procedures connected therewith; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section. 1 An Act providing for programs of liability insurance or contracts of indemnity for State agencies, approved March 30, 1977 (Ga. Laws 1977, p. 1051), as amended, is hereby amended by adding between Sections 1 and 2 a new Section 1A to read as follows:

Section 1A. Law enforcement personnel who are participants in any program coordinated and administered by the Georgia Organized Crime Prevention Council which provides for the temporary assignment or loan of local law enforcement personnel to other local law enforcement agencies for the purpose of such law enforcement officers serving as undercover agents in criminal investigations, or in any other manner or capacity assisting such local agencies in criminal investigations, may be provided protection against personal liability for damages sustained by third parties and arising out of the performance of such law enforcement personnel's duties while serving on such temporary assignment or loan. The Commissioner shall prescribe the terms and conditions under which such personnel may be covered by any liability insurance policy or contract of indemnity or other like or similar programs administered by the Commissioner pursuant to the provisions of this Act to provide such protection. Provided, further, that persons employed by the district attorneys of the State of Georgia, irrespective of the

LEVITICUS PROJECT

The Leviticus Project is a cooperative multistate investigation of crimes affecting the Appalachian coal industry. The project consists of fourteen law enforcement agencies from Alabama, Georgia, Indiana, Kentucky, New York, Pennsylvania and Virginia. The Georgia participating agencies are the Organized Crime Prevention Council, the Secretary of State Securities Division, and the Georgia Bureau of Investigation. The member

source of the funds used to pay such persons, shall be allowed to purchase policies of liability insurance and contracts of indemnity insurance and for the purpose of this Act shall be considered to be State employees."

Section 2. This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.

Approved March 20, 1980.

Since its inception on July 1, 1980, through December 31, 1980, the Locals to Help Locals program has been very successful. During this period there was a total of eighty-five requests for the use of the Council's electronic surveillance equipment. Ten requests from various departments throughout the State of Georgia were received in the Council office to draw from the statewide manpower pool. Local departments drew from the manpower pool for undercover type operations and other investigations which were conducted over short periods of time. Smaller departments as well as the larger ones have borrowed manpower and utilized the special electronic and surveillance equipment to do special and/or undercover-type investigations. Arrests through the use of the equipment and manpower during this six-month period totaled approximately 300. Thousands of dollars in stolen merchandise and automobiles were recovered through the use of the equipment and manpower. One specific investigation noteworthy of mentioning netted approximately one and a half million Quaaludes, with an estimated street value of \$6 million. Even though the program is in its beginning stages it appears that the program is very successful in both manpower and equipment usage.

states joined as a structured group in 1978, after working together on a case-by-case basis since 1976. In the autumn of 1978, the Leviticus Project Association was formed to seek funding assistance from the Law Enforcement Assistance Administration. An initial grant of \$1 million was approved in February, 1980, followed in June, 1980, by a supplementary grant of \$250,000 for a computerized management and informa-

tion system.

The project is directed by its executive committee which is composed of one member from each state. Jim Foughner, Executive Director of the Georgia Organized Crime Prevention Council, serves as the executive committee member for Georgia. Robert M. Morgenthau, District Attorney of New York County, is permanent chairman of the committee, and Thomas L. Krebs, Director of the Alabama Securities Commission, is vice-chairman. All member agencies are represented on the board of directors, whose chairmanship rotates from one meeting to the next. Wayne Howell, Assistant Securities Commissioner, Phil Peters, Director of the Georgia Bureau of Investigation, and Jim Foughner represent Georgia on the board.

The purpose of the Leviticus Project is the investigation and prosecution of a variety of crimes related to the coal industry, particularly in the Appalachian region. Project members coordinate their work on cases ranging from murder to theft of heavy coal mining equipment to complex organized frauds against financial institutions and investors. One principal focus of the project is the widespread fraudulent syndication of tax shelter investment schemes in coal mining ventures.

Typically, a coal mining tax shelter is structured as a limited partnership. Syndication of the offering generally takes place in affluent, investor-rich areas such as New York, Philadelphia and Atlanta. Investors buy units or partial units in the limited partnership for an investment of cash and promissory notes. The entire investment is characterized as an advanced minimum royalty and therefore can be deducted by the taxpayer-investor in the tax year in which it is made. This deduction provision of the Internal Revenue Code, which makes the tax shelter so attractive, has created investment leverages which now average about four to one, i.e., for each dollar of cash invested, four dollars may be deducted.

The code permits advantageous investments in an effort to stimulate the injection of private capital into the coal industry and thus increase coal production. When a limited partnership coal mining venture is fraudulent, and no coal is mined, a substantial amount of tax revenue is lost and the market for legitimate investment is tainted. Ordinarily, the fraudulent aspect of these limited partnerships relate to the coal-bearing land in an Appalachian state, as to the subleased mineral rights to mine the coal. For example, the property which is the subject of a fraudulent limited partnership coal mining venture might already have been mined, or might be under water, or might be owned by the federal government.

The first series of indictments resulting from the Leviticus investigation was announced jointly by Manhattan District Attorney Robert M. Morgenthau, Georgia Secretary of State David Poy-

thress, and Alabama Securities Commission Director Tom Krebs. Four people, including a 45-year-old Douglasville, Georgia, resident, were indicted by a New York grand jury on charges of defrauding investors of more than \$3.2 million in cash and promissory notes by selling them limited partnership interests in nonexistent coal mining operations. The four were accused in the indictment of three related schemes in late 1978 to defraud sixty-four investors in the New York City area by offering for sale shares of three New York limited partnerships - North Dade Associates, South Dade Associates and Preferred Associates. The companies supposedly had been formed to mine coal on 160 acres in Dade County in northwest Georgia and in DeKalb County, Alabama. According to the indictment the defendants obtained \$1 million in cash and about \$2.2 million in promissory notes from the investors by falsely representing that they controlled valid and usable mineral leases for the property which is situated along the rich Lookout Mountain coal seam; that those leases would be transferred to control by the limited partnerships; and that coal production was under way and tonnage was being stockpiled.

The four also falsely represented to investors, the indictment alleges, that two Alabama engineering companies had produced geological analyses of the property indicating vast coal reserves and that one of the companies had agreed to purchase the coal that was mined from the property.

The engineering companies also are under investigation by various law enforcement agencies but the information provided prospective investors failed to point that out. The case has resulted in the indictment in New York of the four persons for scheme to defraud in the first degree, a felony. Some of the coal mining property supposedly owned by the partnership did not exist, and others were not owned by the defendants' firms. A New York superior court judge has ruled that his examination of the minutes of the presentation of this case to a New York County grand jury indicated that the evidence presented to the grand jury was legally sufficient. All motions by the defendants have been denied, discovery has been completed and the trial was scheduled to begin on March 9, 1981.

During the joint investigation Alabama and Georgia agencies interviewed dozens of potential witnesses and collected hundreds of documentary exhibits. When the case was presented to the grand jury Alabama and Georgia authorities arranged for six witnesses in their states to fly to New York to testify.

The estimated loss to investors in this one case is about \$1 million in cash and \$2.2 million in promissory notes. The potential recovery of cash by the Internal Revenue Service for deductions disallowed in this case is \$1.2 million.

Leviticus Project investigators have seen evidence indicating that several hundred to a few thousand such fraudulent schemes have been syndicated in recent years. Estimates of the resulting loss of tax revenue generally run from \$5 to \$6 billion to over \$10 billion. A major portion of the schemes occurred in a few years immediately following the Arab oil embargo, a period in which there were widespread calls for increased coal production. The Leviticus Project has recently begun to see a sharp rise in the patterns of activity characteristic of fraudulent coal mining ventures.

It appears that the Leviticus Project continues to operate somewhat ahead of expectations in all areas. Highlights as of December 31, 1980, include:

- * The project's caseload continues to grow: there are now twelve Association investigations and thirty Association-related investigations. The project has forty-two designated cases.
- * There are approximately 259 other (nondesignated) coal-related investigations, or complaints under investigation, being handled by member agencies.

TRAINING

GSIN agents attended two organized crime related training courses in 1980.

The first was a two-day course on investigation and prosecution under the newly-passed Racketeer Influenced and Corrupt Organizations Act. Ninety-three investigators and forty-seven prosecutors attended this conference. The agenda for this course was as follows:

Purpose of the Conference

Faced with increasing evidence that "... a severe problem is posed by this State by the increasing organization among certain criminal elements and the increasing extent to which criminal activities and funds acquired as a result of criminal activity are being directed against the legitimate economy of this State" the 1980 Georgia General Assembly enacted the Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act, Ga. Code Ch 26-34. In enacting this legislation, the General Assembly used as models the federal RICO Act 18 U.S.C. § 1961 et. seq. and the Florida RICO, Fla. Stat. § 943.462. This legislation was one of the key elements of Governor George Busbee's Crime Package for 1980 and is designed to give law enforcement and prosecuting attorneys a new weapon to combat the infiltration of and corruption of legitimate business with the tremendous profits derived from criminal activity.

- * Investigative and support personnel devoted 2938 man-days to project work.
- * Project investigators conducted 602 investigative interviews.
- * Charges have been brought against twenty-one defendants in thirteen cases. Charges are expected to be brought against twelve defendants in five additional cases in the near future. Approximately \$12 million (total investment) worth of cases involving fraudulent limited partnership tax shelter syndications have been referred to the Audit Division of the Internal Revenue Service so far. It is anticipated that about \$50 million worth of such cases will be referred to the Internal Revenue Service in early 1981.
- * The project's management and information system is close to becoming fully functional. A master index printout of all of the information thus far entered on the system is available and is being accessed by member states. Procedures for controlled access and the implementation of audit trails are already in place. It is estimated that approximately 1,250,000 pieces of information (nonmanagerial) have been received by the system from the member states.

What is RICO

"Florida's most effective weapon, designed to reach the highest criminal echelons, is its racketeering law, which allows the State to confiscate assets used by organized crime and racketeering. By authorizing stiff criminal penalties and civil forfeiture of illegal profits and investments, the so-called RICO law offers us the opportunity to dismantle the financial empires of the smugglers;" testimony of Jim Smith, Attorney General of Florida, before the U.S. Senate Permanent Subcommittee on Investigations.

Attendance:

This Seminar is open to all employees of District Attorneys, Solicitors, U.S. Attorneys and the Attorney General and State, local and federal law enforcement agencies. The Council expressly reserves the right to approve or deny the attendance at any part or all of this Seminar.

Faculty and Speakers:

Hon. George Busbee—Governor. The Ga. RICO Act was the key element in Governor Busbee's 1980 crime package designed to halt the flow of illegal drugs and narcotics into the State.

James Baker—Assistant United States Attorney and Chief of

the Criminal Division for the Northern District of Georgia. In addition to supervising the prosecution of pornography Kingpin Mike Thevis under RICO, Mr. Baker lecturers on RICO at the Federal Law Enforcement Training Center at Glynco.

Edgar W. Ennis—Assistant U.S. Attorney, Middle District of Georgia responsible for the Columbus division. Mr. Ennis has been with the U.S. Attorney's office in Macon since 1975 and was responsible for the investigation and prosecution of U.S. v. Peacock, a RICO case involving arson, mail fraud and murder.

Janet Ferris—Assistant Attorney General, State of Florida and Chief of the RICO section for the Florida Department of Legal Affairs. Ms. Ferris is in charge of all civil action brought by Florida under RICO and coordinating RICO prosecutions by the State Attorneys.

Ralph Greene—Chief Assistant State Attorney, Jacksonville, Florida. Mr. Greene has been with the State Attorney's office for the past eight years. He has prosecuted cases under the Florida RICO which involved drugs, pornography, auto theft and welfare fraud.

Craig Gillen—Assistant U.S. Attorney, Northern District of Georgia and formerly Assistant District Attorney for the Look-out Mountain Judicial Circuit. Mr. Gillen was co-trial counsel for the United States in U.S. v. Thevis.

Dorothy Kirkley—Assistant U.S. Attorney and Trial Counsel for the United States in the Thevis case. Prior to joining the U.S. Attorney's office in Atlanta, Mrs. Kirkley was an Assistant Attorney General (Criminal Division) in the Georgia Attorney General's office.

Robert W. Wennerholm—Assistant City Attorney and Legal Advisor to Ft. Lauderdale (Fla.) Police Department. Previous experience includes Supervisor of the Police Legal Unit for Dade County Police Department and Special Assistant State Attorney (Forfeitures), Dade County, Fla. He has taught at the Biscayne College and the IACP National Conference.

This Conference, Investigation & Prosecution Under Georgia RICO, August 7-8, 1980, is designated for both prosecuting attorneys and law enforcement. Among the topics to be covered will be:

For All Participants:

Opening Session—General Overview of RICO. The history, purpose and elements of RICO; Benefits and limitations on RICO prosecutions; Factors to be considered in deciding to get involved in RICO.

For Prosecuting Attorneys:

Investigation and Case Preparation. General consideration for investigation; the use of the grand jury in the investigation; drafting the indictment; case preparation; anticipating defenses; generalized conspiracy questions; Bruton Problems; use of search warrants, subpoenas and electronic surveillance; depositions of key witnesses.

Trial of the RICO Case. Constitutionality of RICO; witness preparation; use of trial exhibits; proof of the underlying predicate offenses and racketeering activity; choice of venue; charging the jury; sentencing.

Forfeiture and Civil Remedies. Seizure of assets; choice of action, In rem or in personum; injunctive relief; constitutional issues; sequestration of assets; divestiture; private party litigation.

For Investigators:

Managing RICO Investigators. Coordination of the investigation; time commitments; evidentiary elements (management control, cash flow).

Analyzing the Legitimate Business Enterprise. Structure of business; financial records; personnel records; asset ownership; licenses; other records.

Investigative Elements of the Crime. Elements which must be proved in order to obtain a conviction under the Ga. RICO; workshop: determining what crime is present.

RICO Remedies—Criminal and Civil. The treble pecuniary gain fine; civil remedies; forfeiture of land, property, corporate charters, license and assets; private citizen remedies; damages; workshop: determining the best remedy.

Evidence Gathering. Use of search warrants; grand jury; subpoena; electronic surveillance; interview; workshop: search warrant affidavit preparation.

Development of an Investigative Plan. Manpower allocation; determining where evidence may be found; workshop: developing an investigative plan for a RICO project.

The second course was a three-day training session for the eighty agents involved in the Locals to Help Locals program. The training course consisted of the following:

LOCALS TO HELP LOCALS TRAINING SESSION — August 27, 28 and 29, 1980

Schedule of Events

Wednesday, August 27

8:00 a.m. to 9:00 a.m.

Registration

9:00 a.m. to 11:00 a.m.

J. Robert Sparks, Georgia Prosecuting Attorneys' Council—Title III, wiretap law.

11:00 a.m. to 12:00

Henry Lovern (A.I.D.), National Intelligence Academy—Bird Dog tracking system; Room and body transmitters; Intelligence; kit (Unitel 100).

1:30 p.m. to 4:30 p.m.

Henry Lovern (A.I.D.) (continued).

Thursday, August 28

9:00 a.m. to 11:00 a.m.

Steve Silvey, Standard Equipment Company—Night vision and photography.

11:00 a.m. to 12:00

Joe Bridgers, Cobb County Police Department—Photography.

1:30 p.m. to 2:30 p.m.

Joe Bridgers—Photography (continued).

2:30 p.m. to 4:30 p.m.

M.F. Toler, J. Eddie Nix, Cobb County Police Department—Telephone taps.

Friday, August 29

9:00 a.m. to 12:00

Joe Bridgers, Cobb County Police Department; Bob McClendon, Atlanta Bureau of Police Services—Video and tape recorder.

What Is the Locals to Help Locals Program

This program conceived by Governor Busbee will enable a local law enforcement agency to request and receive manpower and equipment necessary to carry out an undercover or special project in its particular jurisdiction. A manpower pool of agents provided by chiefs and sheriffs throughout Georgia has been formed by the Organized Crime Prevention Council. Agencies large enough to spare manpower and those considered to have experienced personnel were asked to participate in the program. The Organized Crime Prevention Council, in addition to form-

ing a manpower pool, will be responsible for approving requests for project assistance, will assign the agents with necessary skill, and will provide training and electronic equipment for the project. Additionally, the Council will provide liability insurance for the agents on the job.

Purpose of the Training Session

To provide the selected agents with the necessary legal background relating to Title III; and train the agents in the use of the equipment in order that they may acquire the necessary expertise. The training session will be very practical in nature with the "hands on" concept being employed.

Attendance:

This session is restricted to the designated agents that have been contributed to the Locals to Help Locals manpower pool. The Council expressly reserves the right to approve or deny the attendance at any part or all of this training session.

This seminar is supported in part by grants from the Georgia State Crime Commission in cooperation with the U.S. Department of Justice, Law Enforcement Assistance Administration and the P.O.S.T. Council of Georgia.

Faculty and Speakers:

Hon. George Busbee-Governor. Governor Busbee created the Locals to help Locals program and supported the program in his 1980 crime package.

Harold P. Craft—Chief of Police, Marietta Police Department, Marietta, Georgia. Chief Craft serves as Chairman of the Locals to Help Locals Committee for the Georgia Organized Crime Prevention Council. Chief Craft is Chairman of the P.O.S.T. Council for the State of Georgia. He was recently named Chief of the Year by the Georgia Association of Chiefs of Police.

J. Robert Sparks—Prosecuting Attorneys' Council of Georgia. Former Assistant U.S. Attorney, Northern District of Georgia, for a year. Mr. Sparks was Assistant District Attorney, Trial Section, in Lewis Slaton's office for seven years. Also served as Chief of the Organized Crime Strike Force, U.S. Department of Justice, Miami, Florida, for six years. First to try a federal wiretap case.

Henry Lovern—Regional Sales Manager for Audio Intelligence Devices (A.I.D.), Fort Lauderdale, Florida. Also serves as an instructor for the National Intelligence Academy. Mr. Lovern

has an excellent background in law enforcement, having served with the former Department of Florida Law Enforcement for thirteen years.

Steve Silvey—Standards Equipment Company. Excellent background in the use of night vision equipment relating to organized crime investigations.

M.F. Toler—Cobb County Police Department for the past eight years. Currently section commander for the Metro-Cobb Intelligence Unit.

Bob McClendon—Detective with the Atlanta Bureau of Police Services. Detective McClendon's eleven years with the Bureau qualifies him as an expert in the use of wiretap and other technical equipment.

J. Eddie Nix—Sergeant in the Cobb County Police Depart-

ment. Assigned to the Intelligence Unit for the past six years. Graduate of Georgia State University, majoring in Criminal Justice. Has been active in numerous electronic surveillances during the past six years.

J.C. Bridgers—Cobb County Sheriff's Department for the past eight years. Detective Bridgers worked as chief photographer with WAGA-TV for five years. Served with the U.S. Marine Corps in Photo Intelligence. Presently a technician for the Metro-Cobb Intelligence Unit and the Locals to Help Locals Project.

Ron Irvin—Staff member of the Georgia Organized Crime Prevention Council and Coordinator of the Georgia State Intelligence Network. Mr. Irvin held the rank of Major of Detectives before joining the Council staff.

STATEWIDE INTELLIGENCE CONFERENCES

Twelve organized crime intelligence conferences were held in 1980. This brings the total number of conferences from their inception on September 18, 1972, through December 31, 1980, to one hundred twenty-five (125). Representatives from eleven federal agencies—Bureau of Alcohol, Tobacco and Firearms; Drug Enforcement Administration; Federal Bureau of Investigation; Federal Trade Commission; Internal Revenue Service; Organized Crime Strike Force, U.S. Department of Justice;

Securities & Exchanges Commission; U.S. Attorney's Office; U.S. Customs Office; U.S. Immigration Service; and the U.S. Secret Service—plus representatives from the thirty-seven GSIN agencies, meet to exchange intelligence on organized criminal activity. Confidence gained in each other from these meetings has led to the joint federal, state and local special operations and the targeting of organized criminals and their associates for further investigation.

LEGISLATION

House Bill 813, the Racketeer Influenced and Corrupt Organizations (RICO) amendment bill, was drafted by the Prosecuting Attorneys' Council and the Organized Crime Prevention Council and was introduced in the 1981 General Assembly. A copy of H.B. 813, which would amend Code Section 26-34, and an analysis of that bill follow:

H.B. 813

A BILL TO BE ENTITLED

AN ACT

To amend Code Chapter 26-34, known as the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act," so as to add as incidents of racketeering certain violations of the "Georgia Securities Act of 1973," approved April 18, 1973 (Ga. Laws 1973, p. 1203), certain violations of Code Title 5A, relating to alcoholic beverages, and acts or threats involving murder, kidnapping, arson, robbery, bribery, extortion, obstruction of

justice, dealing in narcotic or dangerous drugs, or dealing in securities which are chargeable as felonies under the laws of the United States or any of the several states; to change a reference to Code Section 26-2510, relating to tampering with evidence; to redefine certain terms; to make it unlawful to conspire to do certain acts; to provide for certain forfeiture actions to be brought in personum; to provide for reciprocity of enforcement of judgements; to provide for venue; to provide for subsequent prosecutions; to provide for other matters relative to the foregoing; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. Code Chapter 26-34, known as the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act," is hereby amended by striking from paragraph (16) of subsection (a) of Code Section 26-3402 the following:

"26-2501",

and substituting in lieu thereof the following:

"26-2510",

so that when so amended paragraph (16) of subsection (a) of Code Section 26-3402 shall read as follows:

"(16) Code Section 26-2510, relating to tampering with evidence."

Section 2. Said Code chapter is further amended by adding at the end of the subsection (a) of Code Section 26-3402 the following:

"(21) Any willful violation of an Act known as 'Georgia Securities Act of 1973,' approved April 18, 1973 (Ga. Laws 1973, p. 1203), as amended.

(22) Code Section 5A-514, relating to distilling, manufacturing, making, transportation of alcoholic beverages.

'Racketeering activity' shall also mean any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in securities which is chargeable under the laws of the United States or any of the several states and which is punishable by imprisonment for more than one year."

Section 3. Said Code chapter is further amended by striking subsection (b) of Code Section 26-3402, which reads as follows:

"(b) 'Enterprise' means any sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.", and substituting in lieu thereof the following:

"(b) 'Enterprise' means any person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities."

Section 4. Said Code chapter is further amended by striking subsection (c) of Code Section 26-3402, which reads as follows:

"(c) 'Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity which have the same or similar intents, results, accomplices, victims, or methods of commission and which are otherwise interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this chapter and that the last of such incidents occurred within four years after a prior incident of racketeering activity."

and substituting in lieu thereof the following:

"(c) 'Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission and which are otherwise interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this chapter and that the last of such incidents occurred within four years, excluding any periods of imprisonment, after the commission of a prior act of racketeering activity."

Section 5. Said Code chapter is further amended by adding at the end of Code Section 26-3403 a new subsection to read as follows:

"(c) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsections (a) or (b) of this Code section

Section 6. Said Code chapter is further amended by adding at the end of Code Section 26-3405 a new subsection to read as follows:

"(k) In lieu of the provisions of subsections (c) through (e), the state may bring an in personum action for the forfeiture of any property subject to forfeiture under subsection (a) of this Code section."

Section 7. Said Code chapter is further amended by adding at the end thereof two new Code sections to read as follows:

"26-3409. Reciprocity with other jurisdictions.

(a) Notwithstanding any other provision of law, a valid judgement rendered by a court of a jurisdiction having a law substantially similar to this Code chapter will be recognized and enforced by the courts of this state to the extent that a judgment rendered by a court of this state pursuant to this Code chapter would be enforced in such other jurisdiction.

(b) The Attorney General is hereby authorized to enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any jurisdiction having a law substantially similar to this Code chapter so as to further the purposes of this Code chapter.

26-3410. Venue. (a) In any criminal proceeding brought pursuant to this Code chapter, the crime shall be considered to have been committed in any county in which an incident of racketeering occurred or in which an interest or control of an enterprise or real or personal property is acquired or maintained.

(b) The conviction of an offense which constitutes an incident of racketeering activity shall not bar the use of

such incident as evidence of an act of racketeering in a subsequent prosecution brought pursuant to this Code chapter."

Section 8. This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

Section 9. All laws and parts of laws in conflict with this Act are hereby repealed.

ANALYSIS OF H.B. 813

Section 1 (p. 1, line 22)

Section 1 amends Code § 26-3402, subsection (a) so as to correct a typographical error in paragraph (16).

Section 2 (p. 2, line 7)

Section 2 amends Code § 26-3402 so as to add additional offenses to the list of crimes which constitute "racketeering activity". Added are crimes involving willful violations of the Georgia Securities Act of 1973 (page 2, line 10) and "any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in securities" which are felonies under federal law or the laws of the several states (page 2, line 16). This latter provision [found in both the Federal R.I.C.O. Act, 18 U.S.C. § 1961 (1) (A) and the Florida Act, Fla. Stat. § 943.462 (1) (b)], allows the federal government and Florida to use one of the enumerated crimes committed in Georgia as an "act of racketeering" for purposes of prosecution. Under the Georgia RICO Act, we cannot use a drug smuggling charge in Florida, as "predicate offense" for a Georgia prosecution.

Added as new predicate offenses are felony violations of the Georgia Securities Act of 1973 (page 2, line 10). This provision is being added at the request of the Secretary of State's office and is designed to deal with the growing problem of securities fraud cases (particularly in the area of oil and gas leases) which involve large amounts of investors' money (\$50,000,000 in some cases). Similar violations of securities laws are included as predicate offenses under Florida law, Fla. Stat. § 943.462 (1) (a) (3) and, federal law, 18 U.S.C. § 1961 (1) (D).

Finally, section 2 makes a technical correction in the legislation passed in 1980. The House floor amendment added Code § 58-206 (distilling or making liquor) to the list of predicate offenses. However, during the same session, the General Assembly adopted a new alcoholic beverage code which repeals all of Title 58 on July 1, 1981. The new code section dealing with distilling and making liquors has been added to the list of predicate offenses, so as to carry out the intent of the General Assembly (page 2, line 22).

Section 3 (page 2, line 23)

Section 3 of the bill restores the word "person" to the definition of an "enterprise" found in subsection (b) of Section 26-3402. The word "person" appears in definition of "enterprise" in both the federal and Florida RICO Acts, but it was omitted in the House floor substitute. Most of the legal authorities on racketeering prosecutions who have reviewed the 1980 legislation have indicated that the omission makes it questionable whether we can prosecute an individual who is the mastermind in the classic "hub and spoke" conspiracy.

Section 4 (page 3, line 10)

Section 4 amends subsection (c) of Section 26-3402 which defines a "pattern of racketeering activity", so as to exclude periods of imprisonment from the four-year period in which two or more incidents of racketeering occurred. As passed in 1980, the State is required to prove that incidents of racketeering activity occur within four years of each other in order to be able to obtain a conviction under RICO. The intent of this requirement is to allow the State to be able to show a prolonged course of conduct, see *U.S. v. Field*, 432 F. Supp. 55 (S.D.N.Y. 1977) Aff'd 578 F. 2d 1371 (2d Cir., 1978).

Under the federal law, however, time spent by an individual in incarceration is excluded from the period in which incidents of racketeering must have occurred to be able to prosecute under RICO. (Note: Federal law provides for a ten-year period within which two incidents must have occurred.) In view of the short period provided by the Georgia RICO, it is important that periods of imprisonment be excluded.

Section 5 (page 4, line 1)

Section 5 adds a new subsection (c) to Code § 36-3403 which makes it an offense to conspire to violate the provision of RICO. This subsection is found in both the federal and Florida RICO Acts, but was omitted in the House substitute because it was thought that Georgia's general law on conspiracy, Ga. Code § 26-3201, covered this sufficiently. However, the unintended effect was to bar the use of the civil remedies including injunctive relief, divestiture, and treble damages available to private citizens and businesses in addition to forfeiture, which is available to the State.

Section 6 (page 4, line 7)

Section 6 provides that the State can bring an *in personum* forfeiture action against a racketeer where he resides rather than having to bring separate *in rem* action in each county where property may be located.

Section 7 (page 4, line 14)

Section 7 adds two new sections to the existing law.

Section 26-2409 will allow any jurisdiction which will enforce a Georgia judgment based on RICO to likewise be able to use the Georgia courts to enforce a civil judgement based on their own RICO Act. Without this section it is questionable whether civil judgments obtained under a RICO Act are entitled to "full faith and credit" because they are penal in nature. Thus, a drug smuggler who is bringing drugs into Georgia could use the profits to buy land or maintain bank accounts in Florida and be protected against a Georgia civil judgment under RICO. This section was proposed by the Florida Attorney General as a means of making it more difficult for drug smugglers to hide their assets in an adjacent state.

Section 26-3410 clarifies where venue lies in a RICO case. Subsection (a) states the Georgia law concerning venue in conspiracy cases. Subsection (b) makes it clear that former jeopardy does not bar the use of a conviction for a crime which is an "act of racketeering" as evidence in a subsequent RICO presentation.

The Council assisted in preparing and endorsed Senate Bill 1, which was aimed at making it tougher for criminals to fence stolen gold and silver items. Under this legislation precious metal dealers would be required to keep records of gold and silver transactions and to report the transactions to law enforcement officials. Police then could investigate the reports to see if recently purchased precious metal items matched descriptions of reported stolen items. Transaction records would aid law enforcement investigations by providing identification of individuals who sell gold and silver items to precious metal dealers. A copy of S.B. 1 follows:

S.B.1

A BILL TO BE ENTITLED

AN ACT

To provide for the regulation of certain dealers in precious metals or gems; to define certain terms; to require registration of dealers in precious metals or gems; to provide for maintaining certain permanent records of purchases of precious metals or gems or goods made from precious metals or gems; to specify the content and form of such records; to provide for the mailing of written reports; to provide for the inspection of said records by duly authorized law enforcement officers and certain other persons; to provide for certain requirements and unlawful activities and for penalties in connection therewith; to provide for the construction of local laws and requirements for licensure and the imposition of additional requirements or qualifications at the local level; to provide for exemptions; to provide for other

matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. Definitions. As used in this Act, the term:

(1) "Chief law enforcement officer" means:

- (A) The sheriff of the county if the governing authority has not established a county police department; or
- (B) The chief of the county police department if the governing authority has established a county police department; or
- (C) The chief of police of the municipality.

(2) "Dealer in precious metals or gems" means any person engaged in the business of purchasing precious metals or gems or goods made from precious metals or gems from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems or a person engaged in any other business if, in conjunction with such business, precious metals or gems or goods made from precious metals or gems are purchased from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems where the said purchase is for resale in its original form or as changed by remounting, melting, reforming, remolding, or recasting or for resale as scrap or in bulk.

(3) "Gems" means any precious or semiprecious stone cut and polished.

(4) "Numismatic coins" means coins whose value as collectors' items exceeds the value of the content of the precious metals in the coins.

(5) "Person" means an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

(6) "Precious metals" means gold, silver, or platinum or any alloy containing gold, silver, or platinum.

Section 2. Registration as a dealer in precious metals or gems.

(a) (1) No person shall engage in business as a dealer in precious metals or gems until he has registered as a dealer in precious metals or gems for each separate place of business as provided herein. The registration shall be in writing and shall be sworn to or affirmed by the dealer in precious metals or gems. If the dealer's place of business is located within a municipality, the dealer shall register with the chief of police of the municipality. If the dealer's place of business is not located within a municipality, the dealer shall register with the sheriff of the county unless the county has a county police department in which event

the dealer shall register with the county police department. As to any registration with the chief of police of a municipality or a county police department, a copy of each registration shall be transmitted by him to the sheriff of the county within seven days of the registration. The sheriff of the county shall maintain a record of all registrations which shall be available for public inspection.

(2) The registration shall contain the name, address and age of the dealer in precious metals or gems together with the names, addresses and ages of all other persons having an ownership interest or actually employed in the business other than publicly held corporations.

(3) No person shall be eligible to register as a dealer in precious metals or gems if any employee or stockholder, other than stockholders owning less than 10 percent of the outstanding shares of a publicly held corporation, has been convicted of a felony under the laws of this state or any other state or the United States. This provision shall not apply to any person who has been convicted of a felony after ten years have expired from the date of completion of the felony sentence.

(4) All registrations shall contain the address of the premises upon which the business is conducted and the zoning and planning classification of the premises.

(5) Each dealer shall be required to notify the chief law enforcement officer of the county or the municipality in which the dealer is registered within seven calendar days of any change of address of the dealer or business or any change of ownership in the business. As to any notification with the chief of police of a municipality or a county police department, a copy of the change of address or ownership in the business shall be transmitted to the sheriff of the county within seven days of the notification.

(b) Each applicant for registration shall possess a current business license in the county or municipality or shall pay an initial registration fee of \$25.00 to be retained by the county or municipality to cover the cost of registering such persons. The registration shall be renewed annually upon presentation of a current business license by the dealer or by payment of a renewal fee of \$10.00.

(c) Nothing contained in this section shall be construed so as to authorize any person to transact business as a dealer in precious metals and gems without purchasing a current business license if required by the county or municipality.

Section 3. Permanent records required; content. (a) Every dealer in precious metals or gems shall maintain a book, in permanent form, in which shall be entered at the time of each purchase of precious metals or gems or goods made from precious metals or

gems the following:

- (1) The date and time of the purchase transaction;
- (2) The name of the person making the purchase from the seller;
- (3) The name, age, and address of the seller of the items purchased and the distinctive number from such seller's driver's license or other similar identification card containing a photo of the seller;
- (4) A clear and accurate identification and description of the purchased goods, including the serial, model, or other number, and all identifying marks inscribed thereon.
- (5) The price paid for the goods purchased;
- (6) The number of the check issued for the purchase price if payment is made by check; and
- (7) The signature of the seller.

(b) The permanent record book required herein shall be legible English. Entries shall appear in chronological order. No blank lines may be left between entries. No obliterations, alterations, or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The book shall be maintained for each purchase of precious metals or gems or goods made from precious metals or gems for at least two years. The book shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or at any reasonable time.

(c) Dealers exclusively engaged in buying or exchanging for merchandise scrap dental gold and silver from licensed dentists by registered or certified mail may record the post office record of the mailed parcel in lieu of the seller's age and driver's license number as required in paragraph (3) of subsection (a) of this section and in lieu of the seller's signature as required in paragraph (7) of subsection (a) of this section.

Section 4. Written reports required. (a) Every dealer in precious metals or gems shall make a report in writing to the chief law enforcement officer of the county or municipality in which he is registered of all precious metals or gems or goods made from precious metals or gems purchased on the day previous to the date of the report on forms approved or prescribed by the chief law enforcement officer of the county or the municipality. The report shall contain the information specified in paragraphs (1) through (5) of subsection (a) of Section 3 and shall be typewritten or handwritten in legible English and mailed or delivered to the chief law enforcement officer of the county or the municipality within 24 hours after the day on which the transactions occurred.

(b) (1) All reports shall be maintained in a locked container under the direct supervision of the chief law enforcement officer of the county or municipality and shall be available for inspection

only for law enforcement purposes.

(2) The chief law enforcement officer of the county or municipality may, in his discretion, authorize any person to inspect the reports in an effort to locate stolen property who demonstrates theft of precious metals or gems by the presenting of an incident report or other similar document.

Section 5. Requirements; unlawful activities; penalties. (a) It shall be unlawful for any dealer in precious metals or gems or any agent or employee of a dealer in precious metals or gems who makes purchases of precious metals or gems or of goods made from precious metals or gems to:

- (1) Make any false statement in the registration provided for in Section 2; or
- (2) Fail to maintain and make entries in the permanent record book as required by Section 3 of this Act; or
- (3) Make any false entry therein; or
- (4) Falsify, obliterate, destroy, or remove from the place of business such permanent record book; or
- (5) Refuse to allow any duly authorized law enforcement officer to inspect such permanent record book, or any precious metals or gems in his possession, during the ordinary hours of business or at any reasonable time; or
- (6) Sell, exchange, or remove from the legal possession of the buyer or to alter the form of any precious metals or gems or goods made from precious metals or gems purchased by remounting, melting, cutting up, or otherwise altering the original form until at least seven calendar days have elapsed from the time of purchase or acquisition; or
- (7) Fail to make the written report as required in Section 4; or
- (8) Purchase any precious metals or gems from any person under 17 years of age.

(b) It shall be unlawful for any person to advertise or transact business as a dealer in precious metals or gems without first registering pursuant to the provisions of Section 2.

(c) It shall be unlawful for any dealer in precious metals or gems to purchase precious metals in a melted or smelted state unless the purchase is from a registered dealer in precious metals or gems.

(d) If the chief law enforcement officer of the county or municipality has probable cause to believe that the precious metals or gems have been stolen, he may give notice in writing to the dealer to retain the precious metals or gems for an additional 15 days and it shall be unlawful for the dealer to dispose of the property unless the notice is revoked in writing within the 15-day period.

Section 6. Penalties. Any person violating the provisions of subsection (a), (b), (c), or (d) of Section 5 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor.

Section 7. Local laws. No provision of this Act shall be construed as prohibiting or preventing a county or municipality from licensing dealers in precious metals or gems; or from establishing and imposing additional requirements or qualifications on dealers in precious metals or gems.

Section 8. Exemptions. The provisions of this Act shall not apply to dealers exclusively engaged in the sale or exchange of numismatic coins or to transactions exclusively involving numismatic coins or other coinage.

Section 9. Effective date. This Act shall become effective on July 1, 1981.

Section 10. Repealer. All laws and parts of laws in conflict with this Act are hereby repealed.

House Bill 18 was endorsed by the Council. This bill created the Georgia Criminal Justice Coordinating Council to provide for the interaction, communication and coordination of all components of the Georgia criminal justice system. This law provides that the Chairman of the Georgia Organized Crime Prevention Council will be a member of the Criminal Justice Coordinating Council.

Also, in advance of the 1981 session the Council went on record favoring legislation for an add-on fine and forfeiture to cover training costs for law enforcement personnel. Legislation to this effect (H.B. 392) was not passed in the 1981 session.

Finally, the Council opposed House Bill 272. This bill would enable a convicted felon to be certified as a police officer as long as he had been pardoned for his felony crime more than five years prior to the date of the application for certification. The Council felt that this bill would have a specific adverse effect on our statewide intelligence network and the intelligence gathering functions of our GSN member agencies. National intelligence networks such as the Law Enforcement Intelligence Unit (LEIU) and the multistate Regional Organized Crime Information Center (ROIC) would be most reluctant to trust or share information with our Georgia intelligence agencies with the passage of H.B. 272. Intelligence networks and agencies are built on trust, faith and secure personnel and this trust, faith and security must be perceived as well as real. H.B. 272 passed the House and Senate but was vetoed by the Governor.

1981 FORECAST

The Georgia Organized Crime Prevention Council will devote increased time and effort to coordinating the Locals to Help Locals special project and the Leviticus special project. The thirty-seven member agencies of the Georgia State Intelligence Network will continue to collect and evaluate intelligence data on major organized crime figures and their associates. The

Council will work closely with the Georgia Prosecuting Attorneys' Council and other agencies in passing and implementing the RICO amendment statute. Emphasis will be placed on abating the drug problem, apprehending major theft subjects and apprehending fire for hire arson subjects.

APPENDICES

1. Organized Crime Prevention Council Act

ORGANIZED CRIME PREVENTION COUNCIL.

Ga. Laws 1980

No. 875 (Senate Bill No. 409).

AN ACT

To create the Organized Crime Prevention Council; to provide for assignment of the council to the Board of Public Safety for administrative purposes; to provide for the members, officers, qualifications, duties, powers, authority, appointments, terms of office and vacancies; to provide for meetings; to provide for expenses; to provide for a director and other staff personnel; to provide for rules and regulations; to preserve the powers of certain state agencies; to provide for procedures connected with the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. There is hereby established the Organized Crime Prevention Council of the State of Georgia which is assigned to the Department of Public Safety for administrative purposes only, as prescribed in Section 3 of the "Executive Reorganization Act of 1972" (Ga. Laws 1972, p. 1015), as amended.

Section 2. (a) The Organized Crime Prevention Council shall be composed of eight members who shall be, by virtue of their training or experience, knowledgeable in the prevention and control of organized crime, and one of which must be a member on the Board of Public Safety. The Governor shall make all appointments and the members shall serve at his pleasure. The initial terms for the members shall begin July 1, 1981.

(b) In the event of death, resignation, disqualification, or removal of any member of the council, the Governor shall fill the vacancy in the manner as other member appointments.

Section 3. (a) The council shall elect a chairman and vice-chairman from its members to serve at the pleasure of the council and may appoint such committees as it considers necessary to carry out its duties.

(b) The council shall meet once each alternate month. Additional meetings may be held on the call of the chairman or at the written request of any three members of the council.

(c) Members of the council shall serve without compensation but shall receive the same expense allowance per day as that received by a member of the General Assembly for each day such member of the council is in attendance at a meeting of such council, plus either reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such

attendance as members of the General Assembly receive. Such expense and travel allowance shall be paid in lieu of any per diem, allowance, or other remuneration now received by any such member for such attendance.

Section 4. (a) The council may appoint a director who shall serve at the pleasure of the council.

(b) The director may contract for such services as may be necessary and authorized in order to carry out the purposes of this Act and may employ such other professional, technical, and clerical personnel as deemed necessary to carry out the functions of this Act.

Section 5. (a) The council is hereby authorized to promulgate and adopt rules and regulations consistent with this Act which are necessary for the performance of its duties.

(b) The council shall develop and coordinate strategies and plans to attack and control organized crime, such as:

- (1) Creation, guidance and counseling of the Georgia State Intelligence Network (GSIN);
- (2) Coordination of joint federal, state and local intelligence conferences;
- (3) Providing organized crime and intelligence training courses;
- (4) Preparation of annual reports and annual confidential reports on Georgia's organized crime problem;
- (5) Development of an annual organized crime legislation package;
- (6) Coordination of international, national, and statewide special projects to combat organized crime;
- (7) Providing advice and counsel to the Governor; and
- (8) Informing the public of the menace of organized crime and the threat it poses to the citizens of Georgia.

(c) Notwithstanding any provision in this Act to the contrary, the Organized Crime Prevention Council shall not exercise any power, undertake any duty, or perform any function presently or hereafter assigned by law to the Governor, the Attorney General, or any prosecuting or investigatory agency at the state or local level.

Section 6. This Act shall become effective on July 1, 1981.

Section 7. All laws in conflict with this Act are hereby repealed.

Approved March 20, 1980.

2. Council Bylaws

BYLAWS

(amended)
June 1980

GEORGIA ORGANIZED CRIME PREVENTION COUNCIL

ARTICLE I (Name)

The name of this organization shall be the Georgia Organized Crime Prevention Council.

ARTICLE II (Purposes)

1. To develop and coordinate strategies and plans to attack and control organized crime;
2. To encourage and develop improved intelligence resources in the state and local agencies responsible for combatting organized crime;
3. To provide advice and counsel to the Governor of Georgia on ways and means to prevent and control the intrusion of organized crime in Georgia;
4. To be administratively attached to the Georgia Public Safety Board;
5. To prepare the organized crime component of the annual Law Enforcement Assistance Administrative (LEAA) Action Program to Prevent and Control Crime for submission to the State Crime Commission for final approval;
6. To create, guide and counsel the Georgia State Intelligence Network (GSIN);
7. To inform the public about the menace of organized crime and the threat it poses to the citizens of Georgia.

ARTICLE III (Membership)

Section 1:

There shall be eight (8) members of the Georgia Organized Crime Prevention Council appointed by the Governor of the State of Georgia and serving at the pleasure of the Governor. Membership on this Council shall be broadly representative of law enforcement officials within the state and its members, by virtue of their training or experience, shall be knowledgeable in the prevention and control of organized crime.

Section 2:

The Georgia Organized Crime Prevention Council for

the purpose of the bylaws, shall hereinafter be referred to as The Council.

Section 3:

All appointed members of The Council shall have equal voting rights on all matters brought before The Council.

Section 4:

The members of The Council shall not be entitled to compensation for their services, but all members shall be entitled to receive reimbursement for actual expenses incurred in the performance of their duties. Such reimbursement shall be expended from funds allocated for Organized Crime Prevention Council travel.

Section 5:

The names of any members of The Council who are personally absent from two (2) meetings of the full Council during any one twelve-month period shall be forwarded to the Governor for consideration of the reasons for such absences and for consideration of removal from office, such absenteeism deemed sufficient grounds for dismissal.

ARTICLE IV (Officers)

Section 1: Election.

There shall be elected from the general membership of The Council a Chairman and a Vice-Chairman to serve at the pleasure of the Governor or until their successors have been duly elected. The Secretary of The Council shall be the Executive Director of the Georgia Organized Crime Prevention Council.

Section 2: Duties; Appointment of Committees, etc.

(a) The Chairman shall preside at all meetings and conduct said meetings in an orderly and impartial manner so as to permit a free and full discussion by the membership of such matters as may be before The Council. He shall have the same voting rights as a regular member.

(b) The Chairman shall establish and appoint any special committees or subcommittees as may be deemed necessary by The Council.

(c) The Chairman shall, with the advice of The Council, select and so designate the chairman of each committee of subcommittee.

(d) The Chairman, upon approval of The Council, may designate special advisory committees composed of other than regular members of The Council for the purpose of providing information for the use of The

Council.

(e) The Chairman shall be an ex-officio member of all committees.

(f) The Vice-Chairman shall perform all duties of the Chairman in the absence of the Chairman, or in the event of the inability of the Chairman to act, and shall perform such other duties as The Council may delegate to him.

ARTICLE V (Committees)

Section 1:

The Executive Committee shall be composed of the Chairman and two at-large members named by the Chairman. This committee will meet at the call of the Chairman and it shall have the same functions, responsibilities and authorities as those of the full Council when the latter is not in session.

Section 2:

The committees or subcommittees designated by the Chairman and The Council as being needed shall meet at the call of its chairman with a majority of its members constituting a quorum (Legislation Committee, Training Committee).

Section 3:

Each committee or subcommittee may suggest programs or methods and types of research that will be helpful in the accomplishment of The Council's goals and objectives.

ARTICLE VI (Staff)

Section 1:

The Georgia Organized Crime Prevention Council shall be authorized to appoint a full-time executive director and other personnel, professional or clerical, on a full- or part-time basis as may be deemed necessary to work with The Council in discharging its duties.

ARTICLE VII (Funds)

Section 1:

Should funds become available to The Council they shall be used in furthering The Council's goals and objectives. The Fiscal Officer of the Department of Public Safety shall be the fiscal officer of The Council.

ARTICLE VIII

(Meetings; Authority; Quorum; Voting)

Section 1:

(a) The Council shall meet regularly four times each year at the call of the Chairman. Special meetings may be called by the Chairman when deemed necessary and in the best interest of The Council. Committees shall meet at the call of their chairman.

(b) No regular or special meeting of The Council, committee, or subcommittee shall be held without notice to all members at least five (5) days prior to the date of such meeting.

Section 2:

(a) No action of The Council shall be binding unless it is duly acted upon at a regular or special meeting of The Council or executive committee of The Council. No member shall be qualified to speak for or bind The Council unless specific authorization has been granted.

(b) A majority of The Council shall constitute a quorum at any regular or special meeting, and a majority vote of those present is required for the approval of any action of The Council, unless otherwise provided therefor.

(c) The Council may delegate to its members or its professional staff such duties as it may deem necessary in fulfilling its objectives.

(d) The Council shall not have investigative authority.

ARTICLE IX (Georgia State Intelligence Network)

Section 1:

Admission to membership in the Georgia State Intelligence Network, hereinafter referred to as The Network, is subject to approval by The Council by a unanimous vote of the members voting. The Council will include the following considerations in its decisions but is not restricted thereto: needs/benefits to applicant/Council; size of applicant agency as well as extent of its organized crime problem; desirable size of The Network; integrity/credibility of applicant among law enforcement and the community in general. Applicant agency will complete a GSIN department membership application form. This form will include, among other things, a summary of the organized crime problems in the applicant agency's jurisdiction; organization and functions of the applicant agency's intelligence unit; names of agents in three or more intelligence units that applicant agency has contacted recently; and letter of

sponsorship from existing member agency.

Section 2:

Membership in The Network is not a matter of right, and suspension therefrom may be voted on by The Council at a regular or special meeting following notice to the member agency of the scheduled action with an invitation to appear and defend against the action proposed. The Council may suspend for any reason it feels is in the best interest of the member agency or of The Network, keeping in mind that mutual trust and confidence among members of The Network are essential to a successful intelligence network. The Council may consider any changes in circumstances of the member's admission to The Network.

A routine suspension occurs upon a change in command involving either the intelligence unit commander or the head of the organization, subject to approval by The Council of such change.

Except for a routine suspension The Council through its Chairman or Executive Director will keep the Gov-

ernor advised of any action which may affect the credibility and effectiveness of The Council in carrying out the designated purposes for which it was organized.

**ARTICLE X
(Amendment of Bylaws)**

Section 1:

- (a) Amendments to these bylaws may be presented at any meeting but shall not be considered for passage until the next regular or special meeting.
- (b) Any proposed change in the bylaws shall be submitted to The Council members in the notice of the meeting.

ARTICLE XI

Section 1:

Roberts Rules of Order shall govern in all cases in which they are not inconsistent with the bylaws and the standing rules and orders of The Council.

END