

CRIME IN VIRGINIA

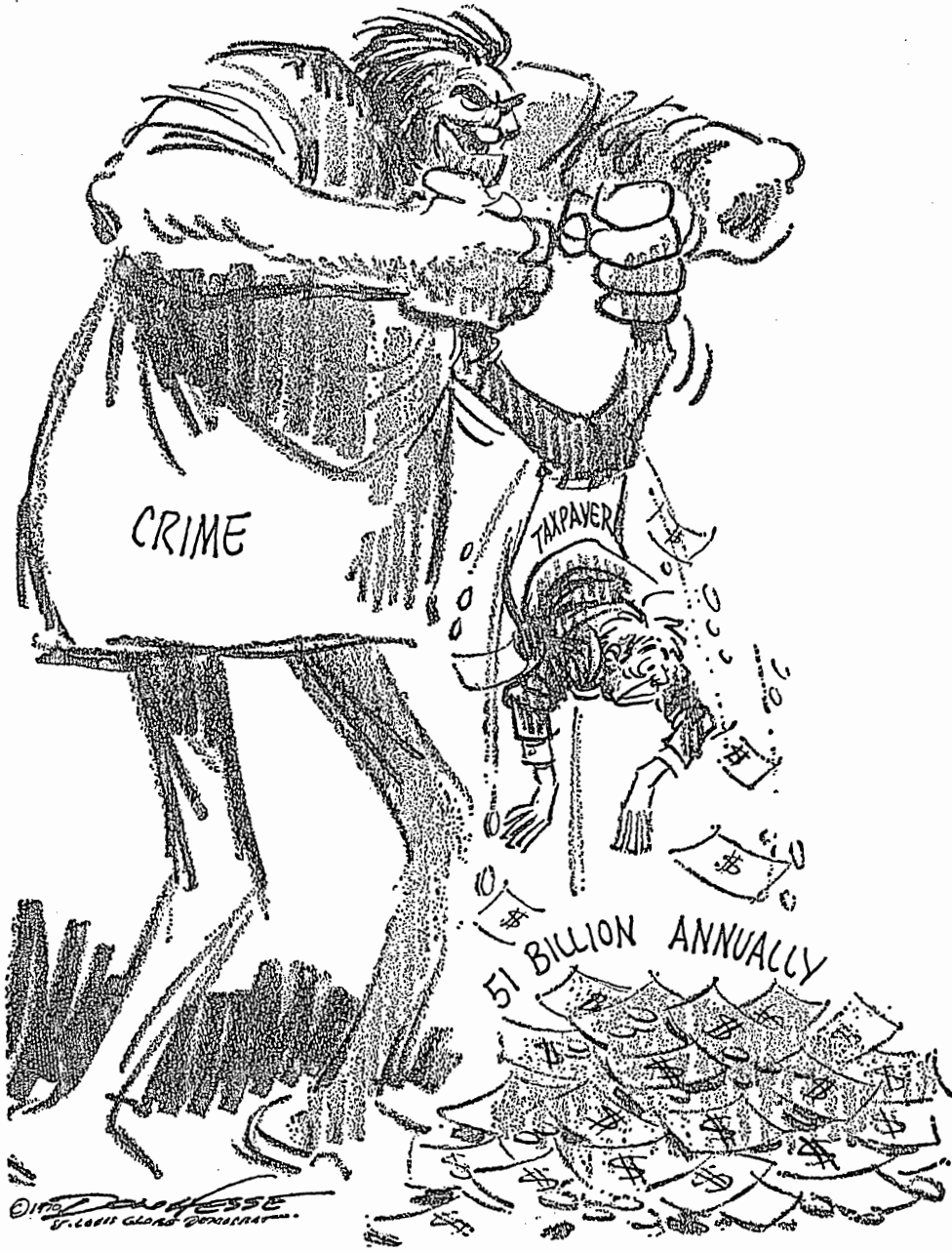
**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION
TO
THE GOVERNOR
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document 3

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1972

Giant Mugging



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THE VIRGINIA STATE CRIME COMMISSION

Report to the Governor and the General Assembly—1971

Crime costs the taxpayer of this country over fifty billion dollars annually, not to mention the indirect cost, injury and suffering of the people.

At the dawning of the last decade, the Commonwealth of Virginia, as did the rest of the Nation, became alarmed at the astounding increase of crime throughout the Nation and State. The people of Virginia were perplexed and baffled as crimes of violence, disorder and disrespect for property became a way of life for many. The young seemed most willing to accept lawlessness as a means to accomplish any end. Law and order faced a severe challenge to its very existence. It became increasingly clear that the law enforcement agencies and the judiciary could not cope with the problems with the tools at hand. Much of the criminal law and procedures and methods of enforcement were outdated and insufficient. Extensive study and re-evaluation was necessary to grapple with the entire area of crime control.

This alarm was manifested by action on the part of the 1966 Regular Session of the General Assembly by creating the Virginia State Crime Commission (House Joint Resolution 13) for the purpose of conducting a study of the general crime picture with emphasis in particular areas, reporting on the findings of such study and recommendations for implementation of the report. The 1968 Regular Session of the General Assembly continued the Virginia State Crime Commission (House Joint Resolution 48) as did the 1970 Regular Session of the General Assembly (House Bill 764).

The Commission has made several general and interim reports to the Governor and General Assembly of Virginia and has recommended legislation in several areas within the scope of its reports.

The 1970 Session of the General Assembly required the Commission to make inquiry into three specific areas in its continuation of its study of crime and crime control. The specifics were: (a) The need of creating a separate state department of government or the establishing within an existing department a bureau of drug abuse and narcotics; (b) The need for establishing a central crime laboratory in Virginia, the method of operation, the cost and whether or not the laboratory should be placed in a separate department of state government or placed in an existing department of state government; (c) The study of the existence and activities of organized crime in the Commonwealth of Virginia.

The Crime Commission is composed of eleven members currently serving. They are: Honorable Stanley C. Walker, Chairman; Senator William H. Hodges, Vice Chairman; Senator George S. Aldhizer, II; Honorable Claude W. Anderson; Senator James W. Davis; Honorable Arthur R. Giesen, Jr.; Honorable Flourney L. Largent, Jr.; Honorable William N. Paxton, Jr.; Honorable A. L. Philpott; Honorable Joe Richman; Honorable Erwin S. Soloman.

The Commission was given staff assistance by the Division of Statutory Research and Drafting, particularly in the person of John A. Banks, Jr. Harold E. Seyller served as Director of the Commission's Task Force investigating organized crime. Melvin R. Manning was legal counsel for the Commission.

Much cooperation and assistance were given to the Commission by the

Attorney General, the Honorable Andrew P. Miller, and his assistants and the Division of Justice and Crime Prevention, Richard Harris, Director.

In its interim report to the Governor and the General Assembly of January 11, 1971, the Commission reported that it found no need for the creation of a separate state department of bureau of drug and narcotics. The Commission recommended that the Department of State Police be given state-wide responsibility for the enforcement of laws relating to narcotics and drug abuse, the coordination of narcotic and drug investigation activity between the various political subdivisions of the State, and assisting law enforcement agencies of all political subdivisions in the enforcement of drug laws when requested to do so by such agencies. In an effort to accomplish the foregoing, the Commission recommended that \$896,000.00 be appropriated to the Department of State Police for the 1971 fiscal year in order that an additional 48 trooper and 12 investigator positions could be created and filled. The appropriation as recommended by the Commission was enacted by the 1971 Special Session of the General Assembly in House Bill 113. In its interim report the Crime Commission recommended that the Governor's Council on Narcotics and Drug Abuse Control be responsible for all drug educational and rehabilitation programs throughout the State. The recommendation was accepted by the General Assembly in the 1971 Special Session by its enacting Senate Joint Resolution No. 26. The Commission recommended that more effective coordination be established between educational institutions and law enforcement agencies of political subdivisions where such institutions are located.

The Commission recommended that there be established a Commission to study specifically the law enforcement aspects of the present narcotic and drug laws of the State. The General Assembly in the 1971 Special Session established such Commission by the enactment of House Joint Resolution 16.

Finally, in its 1971 interim report, the Virginia State Crime Commission recommended that the State Board of Education require every elementary and secondary school in the Commonwealth to institute educational programs on the dangers of narcotic and drug abuse. The 1971 Special Session of the General Assembly adopted this recommendation of the Crime Commission by the enactment of House Joint Resolution 15.

The Crime Laboratory Subcommittee of the Virginia State Crime Commission submitted its report to the full Commission in March of 1971. The Task Force on Organized Crime will present its report to the full Commission by the 15th of December, 1971.

It is the position of the Crime Commission that many areas, some of which have been reported on previously, need further study in order to keep the Commonwealth of Virginia abreast of the most recent developments in the areas of crime and crime control, including the rehabilitation of offenders. The obvious base for such study will be the continuation of the Virginia Crime Commission. Its primary purpose will be to investigate and recommend to the General Assembly in the aforementioned areas. This can only be accomplished by an adequately staffed Commission under the direct control of the General Assembly.

DRUG ABUSE AND NARCOTICS

A principal charge to the Crime Commission by the 1970 Legislature (House Bill 764) was whether or not there existed a need for a separate state agency to deal with the problems of narcotics and drug abuse. A subcommittee, under the chairmanship of Senator James W. Davis, composed of members of the Commission, Colonel William R. Durrer, Chief of Police of Fairfax County and Sheriff John F. Atwood of Prince George County, undertook the inquiry.

In its investigation of the topic the subcommittee and the full Commission held meetings with various persons and groups including the North Carolina State Bureau of Investigation, the presidents and/or representatives of all fourteen four-year state-supported Colleges and Universities in the Commonwealth, the Attorney General's Office, the Director of the Governor's Council on Narcotic and Drug Abuse Control and representatives of the Department of State Police.

The Commission found that the drug problem, though much more extensive in the metropolitan areas, had extended throughout the Commonwealth, particularly in colleges, universities, high schools and junior high schools. There was a particular recognition for the need to attack the problem of drug abuse at the juvenile level.

The Commission recommended in its report to the Governor and the General Assembly in January, 1971, that there was no necessity for a separate state agency to deal with enforcement of drug laws on the state level; that the Department of State Police is the most suitable and appropriate state agency to deal with the question of enforcement of narcotic and drug laws as well as coordinating the investigation enforcement activity pertaining to drug and narcotics laws between various other agencies and political subdivisions of the State. The Commission recommended that an additional \$896,000.00 be appropriated to the Department of State Police for the fiscal year beginning July 1, 1971 in order that it might increase its personnel and fulfill its expanded role in drug abuse and narcotics law enforcement. Measures were enacted by the 1971 Session of the General Assembly implementing the recommendation. House Bill 113 authorized the \$896,000.00 appropriation for the State Police, and incorporated the general recommendation of the Crime Commission expanding the role of the State Police Department in the area of drug abuse and narcotic law enforcement. The appropriation was enacted by House Bill 151. House Bill 141 amended the drug control law sections of the Code making language changes for clarification purposes.

The Commission further recommended that the Governor's Council on Narcotics and Drug Abuse Control be responsible for all drug educational and rehabilitation programs throughout the State including coordinating state agencies to educate the public on the dangers of drug abuse, and to encourage the use of the existing state facilities for the treatment and rehabilitation of drug addicts (enacted by Senate Joint Resolution 26-1971).

Drug Law Enforcement

Despite the efforts that have already been made by the General Assembly, the Governor's Council on Narcotics and Drug Abuse Control, the State Police, the Crime Commission and other interested groups, drug law violations still continue to plague the Commonwealth particularly among the young, at an enormous rate. Administrators from the fourteen state supported four-year institutions of higher learning in an appearance before the Crime Commission

illustrated the circumstances that prevail as to drug use on campus and the difficulties of enforcement of drug laws.

Dr. Edgar F. Shannon, Jr., President of the University of Virginia responded to questions of the Crime Commission as follows:

Q. Who has the primary jurisdiction for the enforcement of laws on campus?

A. Part of the University grounds is in Charlottesville and part is in the County of Albemarle.

Q. You realize then that the county and city law enforcement officials have the primary law enforcement responsibilities and not the University?

A. Yes.

Q. Do they exercise their right by patrolling the campus?

A. No. We have our own security forces.

Q. How would you keep them off?

A. I can't. The security forces are deputized as police officers. There is close cooperation between local law enforcement officials and our security forces. We exchange efforts for each other's problems.

Q. Do you believe that a university should be a sanctuary?

A. No, but I believe we are trying to develop young people as leaders. We don't want them to feel they are exempt. We want to instill justice fairly and not make them feel they are getting hardened punishment for minor infractions.

Q. Do you have any survey on how many students are using drugs?

A. No survey; but our own loose estimates are 40% of our students have experimented. One of our medical faculty members has done quite a bit of work with student groups. Other groups from the University speak at high schools.

Q. Do you work with the State Police on drug cases?

A. Yes. Our security forces work with them. Our chief of the security forces is a former F.B.I. agent and works well with all agencies.

Q. It seems that the Presidents are acting as police chiefs, judges, probation officers and other capacities, as well as educators; doesn't this put you in a tough situation?

A. Yes, but we are expected to do so.

Dr. T. Marshall Hahn, Virginia Polytechnical Institute and State

Q. Is possession of drugs an automatic suspension?

A. No. A hearing is conducted and penalties are given with suspensions up

Q. How about the difference between students and nonstudents?

A. The student is liable for breaking a contractual relation, plus, is liable to civil actions. The nonstudent is only liable for civil actions.

Dr. James C. Nelson, Dean of Students at Virginia State College told the Virginia Crime Commission:

Q. Do you have much difficulty with nonstudents?

A. We can't keep them off campus. In one recent case, a nonstudent was

Q. Are there any militant organizations on campus?

A. All organizations must be approved. The most militant is the Afro-American Society, but they have not caused any disturbances so far. There are no S.D.S. units or Black Panthers.

Q. What are your relations with the local law enforcement agencies and the State Police?

A. Good. We have, in the past, and will in the future call them in with seminars with students for better relations and better understanding of law enforcement activities. We have students on all of our committees and we are getting good feedback.

Dr. James L. Bugg, Jr., President of Old Dominion University at Norfolk related to the Commission as follows:

Q. How many students do you have enrolled?

A. Approximately 10,000.

Q. Do you feel that you are getting students with previous drug

A. Yes. Especially from Northern Virginia.

At the same meeting of the Crime Commission, Colonel Harold Burgess, Superintendent of the Department of State Police told the Commission that he had not been requested to advise college administrations on the availability of State Police nor had he been questioned as to the jurisdiction of college campuses as to law enforcement. The Commission as well as the State Police believes that the primary purpose and duty of law enforcement on college campuses is that of the Police Department and that campuses do not have sufficient security forces (special police) to deal with the problem of drug abuse on campus.

The increased drug law problem is not confined to college campuses, but is extensive in high schools and junior high schools and even in primary schools. The drug problem among nonstudents in metropolitan areas is considerable, both among adults and juveniles.

Drug law enforcement throughout the Commonwealth, including metropolitan areas, colleges, universities, and other school facilities requires a significant effort be made on the part of local and state authorities.

Successful law enforcement of drug laws requires knowledgeable police investigators to work as undercover agents in an effort to determine the source of supply of illegal narcotics. Unfortunately such investigators are in short supply. Once an investigator is exposed by court appearances or otherwise as a police officer, his use in drug law enforcement as an undercover agent is lost in the particular locality and in many instances throughout the State. It is due to this reason that there has to be cooperation between all law enforcement agencies, both State and local, to supply investigators who are trained as undercover agents to infiltrate and identify sources of supply of illegal drugs. The training and maintaining of such investigators is quite expensive.

Additionally, money needed for purchasing drugs by undercover agents also is necessary. There have been reports to the Crime Commission of many instances where it was not possible to get to large suppliers simply because the police agency involved did not have the necessary funds to make purchases of drugs at a top supplier or source and was forced to buy only from the local distributor or retailer. The drug problem will not be significantly attacked until it is possible to break up distribution at the major sources in the Commonwealth.

The Commission supports the budget request of the Department of State Police for the 1972-74 biennium recognizing its increased budgetary demands, such as the Central Criminal Records Exchange and its expanding role in drug law enforcement.

The Crime Commission feels that an intensive effort in the enforcement of drug laws must be made by law enforcement agencies, particularly by the use of trained investigators. There is no substitute for investigation teams who have obtained expertise in the field of criminal investigation. When dealing with the criminal element in the area of drug law violations much of the activity is conducted by offenders who have achieved considerable sophistication in purchasing and supplying illegal drugs. Law enforcement officers untrained in investigation procedures, particularly investigation of narcotics and drug violations, are ill-equipped to deal with this type of criminal violator.

The cost for providing the needed law enforcement in this area is considerable. The following quotation from the Budget Summary prepared by the Department of State Police is noteworthy:

The 1971 special legislature appropriated funds and authorized 60 additional police personnel to permit this Department to increase its activities in enforcement of narcotics and drug abuse laws. Sixty men (12 investigators and 48 troopers) are currently assigned to this program. Funds amounting to approximately \$1,000,000.00 each year are requested to continue enforcement in this area.

The Department of State Police is requesting \$1,000,000.00 to be expended each year to maintain the *status quo* in drug law enforcement. Twelve investigators and forty-eight troopers (who are used as undercover agents until their identity becomes known) are not sufficient to deal with the problem of drug abuse since it is abundantly clear that the drug violators are not maintaining the *status quo*.

Indicative of the problem is the use made by the State Police of the \$896,000.00 appropriated by the 1971 Legislature. The following report to Colonel Burgess is most significant:

To: Colonel H. W. Burgess

Subject: Narcotic and Drug Abuse Funds

Shown below is an accounting of the funds appropriated to the Department of State Police by the 1971 General Assembly to enable the Department to expand its activities in enforcement of Narcotic and Drug laws:

Appropriated effective April 1, 1971, (HB113, HB151)	\$896,000.00
Expenditures April 1—September 30, 1971 (48 troopers, 12 investigators)	
Salaries	\$242,193.00
Meals, lodging and communications	18,603.00
Motor Vehicle repairs, supplies and insurance	16,983.00

Training	1,242.00
Purchasing evidence, paying informants and related investigative expenditures	40,301.00
Office equipment (desks, chairs, filing cabinets, etc.)	3,067.00
Motor Vehicles	20,355.00
Photographic equipment	5,134.00
Derringers	3,553.00
Ammunition and miscellaneous supplies	150.00
Retirement, social security, group and surety insurance	<u>71,138.00</u>
	422,720.00
Balance October 1, 1971	<u>\$473,280.00</u>

At the current rate of expenditure, the balance remaining will not be adequate to defray costs until June 30, 1972, and an additional sum of \$130,000 will be required. This situation exists for two reasons: (1) Substantial unbudgeted expenditures have been incurred. The funds appropriated were based upon the ordinary costs (salary, equipment, supplies, etc.) of a trooper during his first year of employment and did not include funds for purchasing evidence, paying informants and other investigative expenses peculiar to drug investigations. Such expenses now amount to about \$8,500 monthly or \$102,000 annually. (2) The funds were originally intended to cover a twelve-month period (July 1, 1971—June 30, 1972), but because of the urgent need for action, the General Assembly enacted emergency legislation thereby extending the period to fifteen months (April 1, 1971—June 30, 1972).

As a possible means of obtaining supplemental funds, I am preparing an action grant application for \$130,000 for submission to the Division of Justice and Crime Prevention. The application should be ready for submission by October 22, 1971.

/s/ A. Holcomb
Property and Finance Officer

The Department of State Police must be given funds to combat the drug problem on a State-wide level. There must be facilities for cooperation between the State Police and Local authorities for interchanging personnel and supplying "buy money". The Federal authorities are concentrating their enforcement efforts primarily at the import level into the county and local authorities are operating primarily at the retail distribution and user level. The major pipelines moving narcotics into the State and through the State are basically untouched. This is the area that must receive critical attention of law enforcement agencies in the near future. It is absolutely necessary that sufficient funds be made available to the State Police and to local authorities to deal with narcotics violations. It is likewise essential that cooperation between law enforcement agencies be maintained at the highest degree. It is the responsibility of the Virginia Department of State Police to direct such cooperative efforts.

The need for more investigators to work on the movement of illegal drugs into and within the State is critical at a time when the budget does not sustain the present investigative program. Within the Department of State Police there should exist an investigation division with state-wide jurisdiction. In this manner investigators with experience and expertise can be retained. Now, in

frequent instances, an investigator is forced to go into other areas of law enforcement within the department to receive a promotion or a pay increase, thereby reducing the overall effectiveness of law enforcement and incurring the expense and time of training a replacement. *In its prior reports the Crime Commission has urged, as it does now, that there be established in the Department of State Police a separate investigation division.* This division must have full investigation and intelligence capability.

An investigation division, composed of trained and experienced investigators in the Department of State Police utilizing the facilities of a central crime laboratory system and the Central Criminal Records Exchange, already in the Department of State Police, will be the most potent law enforcement weapon available at this time to combat serious crime in Virginia.

The final chapter on drug law enforcement, as well as the entire question of drug abuse in the Commonwealth of Virginia, has not been written nor is it in sight. The Crime Commission feels that much effort will be necessary in the future and that the Crime Commission must keep constant surveillance of the development of law enforcement in the drug area so that it can be coordinated with rehabilitation and prevention programs. This difficult area is one of the chief reasons why the Virginia Crime Commission must be maintained as a permanent commission by the General Assembly. The drug fight cannot be won by a single department of House or State or Federal government, and no body, including the legislative, can "let George do it".

Rehabilitation

Dealing with drug abuse control law enforcement *per se* is only one-half of the vital job that must be done. In addition to the law enforcement, a working rehabilitation program must be maintained throughout the State. Individuals who find themselves addicted to the various narcotics must be given an opportunity to become valuable and wholesome citizens again and at the same time the market for the pusher must be dried up. The Crime Commission has gone on record in its support of the Governor's Council on Narcotics and Drug Abuse Control's responsibility for drug educational and rehabilitation programs throughout the State (Senate Joint Resolution 26-1971). Though this approach is sound, there are severe limitations on the Council as well as any other State agency actually controlling, coordinating and promoting State-wide rehabilitation programs.

The Governor's Council on Narcotics and Drug Abuse Control has pointed out that:

1. Drug abuse is a phenomenon that proliferates in a subsurface fashion so that, like the iceberg, only a small percentage of the problem is readily apparent.

2. Due to the complex nature of the drug abuse problem, many states have failed in their attempts to control by utilizing piecemeal and "crash" programs. This is shown that the responsibility for control should not be vested in any single state agency, but should involve the combined efforts of all human resource service agencies in the State.

3. Fragmentation of drug abuse control efforts has been found to be one of the major drawbacks in substantially reducing drug abuse.

It is the Commission's view that all rehabilitation programs be licensed by an appropriate State authority who can enforce adequate standards throughout the program. There are numerous individuals and organizations throughout the State who, in their zealotry to participate in drug rehabilitation programs, are organizing and operating drug rehabilitation centers. These groups have

been successful in getting grants from Federal sources while state authorities have stood by on the sidelines without the tools to ensure that the program is proper or adequate. There is a present danger that lack of proper control will lead to situations where addicts are not rehabilitated but rather will be given a free drug maintenance program at public expense. Many persons who would provide rehabilitation to addicts are not qualified. Many programs are not qualified, yet the State has not set up standards for such programs, nor have licensing procedures been adopted beyond the statutory directive to the Department of Mental Hygiene and Hospitals (Va. Code Ann. Title 37.1-179 et. seq.).

The Crime Commission supports legislation that will require any rehabilitation program, regardless of who conducts the program, to be licensed by the Department of Mental Hygiene and Hospitals as provided in Title 37.1.

Likewise, it is the recommendation of the Commission that any person or organization seeking to institute or operate a program of rehabilitation by the use of a drug treatment program, such as the Methadone program, be required to obtain a license to operate the program from the Department of Health. Such license requirement is not intended to infringe upon the present State law regarding drug control as the responsibility of the Board of Pharmacy. What this legislation is designed to do is to control the program as well as the vehicle drug.

A subcommittee of the Rehabilitation Committee of the Governor's Council on Narcotics and Drug Abuse is now studying standards for the two rehabilitation programs. These standards should be made available to the respective departments for their use in establishing licensing procedures and operating standards for such programs. The Commission feels that such legislation should carry the emergency clause so that the much needed standards and licensing can become a reality at the earliest possible date.

The Commission further recommends that legislation be enacted establishing by statute, a Council on Drug Abuse Control and a Division of Drug Abuse Control in the Governor's office as successor to the Council on Narcotics and Drug Abuse Control established by the Executive Order of the Governor of April 29, 1970.

The Division of Narcotics and Drug Abuse Control must be an adequately staffed component established in the Governor's office to serve as the administrative arm of the Council on Drug Abuse Control. The Council should be composed of the Commissioner of Administration, the Secretary of the State Board of Pharmacy, the Director of the Department of Welfare and Institutions, the Superintendent of Public Instruction, the Commissioner of Mental Hygiene and Hospitals, the Commissioner of Health, the Superintendent of State Police, the Director of the Council of Higher Education, the Executive director of the Virginia Commission for Children and Youth, the Commissioner of the Department of Vocational Rehabilitation, the Director of the Division of State Planning and Community Affairs, the Director of the Division of Justice and Crime Prevention, the Virginia Employment Commissioner, a representative of the office of the Attorney General and six citizens from the public at large. The Council should continue to be responsible for all drug educational and rehabilitation programs throughout the State as set forth in Senate Joint Resolution 26-1971, with the following powers and duties:

(a) To continually and thoroughly investigate and research the extent and scope of all problems relating to drug abuse within the Commonwealth of Virginia; survey of present and potential facilities and services available in State and local, public and private, agencies, institutions, and associations

which can be cooperatively applied to the solution of existing and anticipated problems; assess all factors, including social, economic, physiological, psychological, etc., which contribute to or stimulate the trafficking in and the indiscriminate use of dangerous drugs.

(b) To coordinate, mobilize, and utilize the research and public service resources of higher education, government, business, industry, and the community at large in the understanding and solution of problems relating to drug abuse.

(c) To promote continuous public support and the environment and public attitude necessary to develop and maintain maximum effectiveness in the performance of its powers and duties.

(d) To formulate a comprehensive plan consistent with the comprehensive law enforcement and criminal justice action planning of the State, developed by the Council on Criminal Justice and in cooperation with the Council on Criminal Justice, for the long-range development, through utilization of federal, state, local, and private resources, of adequate programs, services, and facilities for drawing together into a unified and coordinated effort all research, prevention, control, treatment and rehabilitation, in cooperation with law-enforcement activities for the prevention and control of drug abuse, and to revise such plan from time to time.

(e) To promote, develop, establish, coordinate, and conduct unified programs and activities to accomplish the objectives of the foregoing planning in cooperation with other federal, state, local, and private agencies.

(f) To provide for the centralized dissemination of information and the collection and encouragement of research related to drug abuse prevention and control, and to establish an information, collection, and dissemination network within the framework of existing federal, state, local, public and private agencies and institutions having access to reliable information upon which enlightened policy decisions can be formulated and implemented.

(g) To survey and analyze the need for programs, services, institutions, or facilities for the study, care, treatment, rehabilitation, and aftercare of persons addicted to the use of narcotics and dangerous drugs.

(h) To review and comment on all applications for federal loans, grants-in-aid, or matching funds for drug abuse programs and to approve or disapprove all drug abuse programs receiving state funds or services.

(i) To recommend to the Governor and the General Assembly of Virginia legislation necessary to implement programs, services, and facilities for the purposes herein.

(j) To receive, take hold, and use for the purposes herein, any and every grant, gift, devise, or bequeath made to the Council.

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers.

(l) To report to the Governor annually.

The Governor's Council is requesting an appropriation by the 1972 Legislature for the 1972-74 biennium of \$739,935 in order to finance the operation necessary to carry out the foregoing powers and duties. The Council's plan of action includes attack on drug abuse problems in the areas of education, treatment and rehabilitation in conjunction with law enforcement. The Commission believes that the legislation suggested should be enacted and that the budget request of the Council should be met.

Education

The effort that has been made by the State Board of Education, pursuant to House Joint Resolution 15, requiring specific educational programs on narcotics and drug abuse in the public schools of the State at the primary and secondary level, must be continued with even greater dedication and effort. It is imperative that drug educational programs be available in all school systems throughout the State.

As a follow-up to House Joint Resolution 15, exhorting the State Board of Education to require specific educational programs on narcotics and drug abuse, the Commission strongly feels that through educational programs the Board should emphasize the catastrophic situation in which juveniles find themselves when they are arrested and convicted for a drug law violation. Information before the Commission indicates that many juveniles do not recognize the difficulties and family disruptions caused by a drug arrest and conviction. Most juveniles are completely unaware of the discomfort and stigma of confinement, the expense of defending the criminal charges and the possible loss of civil rights attending a conviction of a drug law violation. Thus, the Commission feels that this picture should be clearly drawn as a part of the educational process.

It is apparent that cooperation between higher educational institutions and the law enforcement agencies has not been sufficient to control the drug abuse problem in the colleges and universities. The State Council of Higher Education should become more involved in this problem with the thought toward providing specific guidelines for college and university administrations to use in dealing with the trafficking, selling and use of drugs in their institutions with particular emphasis on cooperation with law enforcement officers charged with enforcing drug laws.

The Crime Commission is not unmindful that some institutions and systems have cooperated to the fullest extent with law enforcement officials; however, there is no general pattern of cooperation and in some areas it does not exist.

The Commission strongly urges all school administrations to cooperate with State and local law enforcement officers in their fight against the manufacture, sale, distribution and use of dangerous and unlawful drugs in the colleges and universities as well as secondary and primary schools. Specifically in this regard, legislation is suggested to remove from civil liability any student, teacher, principal or staff member of any educational institution who acts without malice and in good faith to report, investigate or cause an investigation to be made into the activities of any student or other person as to drug abuse in or relation to the school in connection with school activities. This bill should remove any doubt that may exist in the minds of any school administrators, teachers and students regarding their civil liability for their good faith effort to combat drug abuse by causing an investigation of suspected drug abuse.

The effort of education in the drug abuse area will continue to require much research, dedication and work by those involved with institutional and general public education. The Crime Commission must also continue to study, observe and recommend measures that will, from a legislative point of view, encourage and assist education in drug abuse control.

PENAL REFORM AND REHABILITATION OF OFFENDERS

The Department of Welfare and Institutions is in the initial stage of constructing a Diagnostic and Reception Center in Louisa County. The contract

for actual construction will be let in December of this year and will require 18 months to complete. The initial construction will be a facility to house 160 inmates in two equal cell block areas. The average stay for each inmate will be for approximately 25 to 30 days for testing, processing, classifying and assigning. The Department has requested an additional \$1,200,000 so that bids may be received in December, 1971, for the additional two cell blocks to house another 160 inmates. Later there will be added administration facilities and a hospital. The projected cost for the initial 160 inmate capacity project is \$3,700,000.

There is now no diagnostic facility for adult offenders in the penal system. The system operates only a basic classification and assignment program.

In order to fulfill the requirements for inmates in small functional penal facilities, a diagnostic center is an absolute must. The center will serve to provide a complete general, medical and psychological workup on every inmate who comes into the system prior to classifying and assigning him to the most suitable unit in the penal system. It is the feeling of the Crime Commission that such a system is the cornerstone for the developing penal system. Problems have arisen throughout the nation in recent years in the penal system generally due to overcrowded conditions, friction among the inmates and lack of adequate rehabilitation facilities for inmates. It is the basic Virginia plan to assign small groups of inmates to various facilities in the system where they may receive educational training and counselling according to their ability and need. Less than 10% of the inmates need long-term confinement in maximum security quarters such as the penitentiary in Richmond.

The Department of Welfare and Institutions is asking the 1972 Legislature for \$441,000 to undertake four pilot programs establishing community based correctional centers. These regional centers will be used to house inmates who are capable of being allowed to mingle in society, yet need a strict and supervised life while living in the correctional center. If the community based correctional center is not suitable for an inmate, he may be placed in the correctional field unit, or maximum security unit.

It is felt that there are many inmates who are suited to living in a community based center while holding a job outside and participating in educational and other programs outside the facility. These units will be at a security level just below that of a correctional field unit.

Every community based facility will house approximately 20 to 35 inmates with a staff of approximately 15 persons. The Department of Welfare and Institutions will have all authority to determine whether an inmate is confined in a maximum security unit, field unit or a community based correctional center. Obvious use of the correctional center will be for those inmates who are about to be paroled or those confined because of a less serious crime entering the system for the first time. An inmate in the facility will be able to make a financial contribution to his stay if he is able to work. Ultimately, there will be a need for approximately 35 of these centers to serve the State. The inmate turnover will be faster in these centers since most of the inmates will be coming in for a short duration, while working toward a parole or while serving the remainder of a short sentence.

There is at present no receiving unit in the penal system for offenders convicted of misdemeanors. Today such offenders are sent indiscriminately to field units or the State Farm. The Department of Welfare and Institutions is requesting \$510,000 to finance a receiving unit to provide facilities for housing incoming misdemeanor offenders for 8 to 10 days in order to classify and assign such offenders to the appropriate field unit. Field units will be operated on a structured and classified basis throughout the system rather than assigning all kinds and types of offenders to any correctional field unit.

The Department is asking for \$2,000,000 to increase the counselling, educational and medical services in the entire system. There is now only one counsellor for the entire 35 field units in the system. Obviously, a need for more counsellors exists. There is, likewise, a need for additional teachers and professionally trained differential staff.

The Department feels a great need in the area of rehabilitation of offenders after release from confinement. In order to establish a realistic and manageable case load for parole and probation officers, the Department is requesting \$786,000 for 50 additional parole and probation officers throughout the State.

Additionally, \$235,000 is being requested for 10 parole officer teams of two persons each to work with drug addicts on probation or parole. This need is greatest in Northern Virginia, Roanoke, Tidewater and Richmond. These officers will cooperate with other drug abuse programs.

The Department of Welfare and Institutions is asking for 12 new regional Juvenile Courts, which when established along with the existing nine Juvenile Courts, will provide Juvenile Court facilities on a regional basis throughout the State, except in the metropolitan areas which already have established Juvenile Courts. It is the Crime Commission's feeling that the additional courts requested are extremely important for proper and efficient administration of juvenile laws.

The Crime Commission supports the request of the Department of Welfare and Institutions in its effort to rehabilitate offenders so that such persons will not be repeat offenders but will again become useful citizens in the Community.

Rehabilitation of criminal offenders is a subject that must be given further study and consideration by the Virginia State Crime Commission with particular emphasis on coordinating the penal system with other crime control efforts.

THE CENTRAL CRIMINAL RECORDS EXCHANGE

The General Assembly of Virginia created in 1968 in the office of the Attorney General a Central Criminal Records Exchange. The purpose of the Exchange was to serve as a central repository of records of offenses. This information was to be made available to police agencies throughout the Commonwealth at their request. The law required that all arrests for violations of State laws (felonies and misdemeanors) be reported to the Exchange. The Exchange was moved to the Department of State Police by the 1970 General Assembly. The 1971 Special Session of the Legislature eliminated many of the less important misdemeanors that were to be reported to the Exchange (e.g. drunkenness), thereby allowing the Exchange to become current in its operation.

The State Police commenced operation of the Central Criminal Records Exchange on July 1, 1970, by accomplishing the move of the Exchange itself from the office of the Attorney General over a weekend in order to minimize loss of use to various police departments throughout the Commonwealth. The Exchange will be operating on a computer basis seven days a week in the very near future, thereby giving immediate retrieval service to all law enforcement agencies in the Commonwealth.

The Exchange has experienced difficulty when some persons have attempted to have the Exchange expunge from its records data of arrest where the accused was acquitted. The Courts have been favorable in ruling that the records need not be expunged, since its data is not a public record, but rather

are available only for law enforcement purposes. The Exchange, not being a public record, does not provide evidence to be used against accused for the purpose of proving guilt or innocence in a criminal trial.

Another area requiring legislative attention is in cases where local criminal ordinances exist that parallel state criminal statutes. A violation of these ordinances *per se* is not required to be reported to the Exchange.

The Commission recommends that the act be amended so that an arrest for violation of a local ordinance, where the offense also violates a similar state law be reported to the Central Records Exchange. Similarly, worthless check offenses should be required to be reported to the Central Criminal Records Exchange.

DEPARTMENT OF FORENSIC SCIENCE

The mandate to the Virginia Crime Commission by the 1970 General Assembly was, in part, to determine the need for establishing a Central Crime Laboratory in Virginia, the method of operation, the cost and whether or not the laboratory should be placed in a separate department of State government or placed in an existing department of State government.

A subcommittee was established by the Crime Commission to conduct detailed investigations into the question raised by the mandate and to report to the full Commission. The subcommittee and the full Commission conducted over twelve hearings, many of them public, throughout the State, conferred with interested and knowledgeable organizations including the Association of Commonwealth Attorneys, the Virginia Association of Chiefs and Police and the Virginia Association of Sheriffs and City Sergeants. The Department of State Police, the Department of Agriculture and Commerce, the Office of the Chief Medical Examiner, the Attorney General of Virginia and several other governmental officers and agencies have worked with the Commission. Additionally, conferences were held with personnel of the Crime Laboratory of the State of North Carolina and the Federal Bureau of Investigation in Washington. On site inspections were made by members of the Commission of crime laboratories in other jurisdictions including North Carolina and the Federal Bureau of Investigation in Washington, D. C.

The Commission received a funding grant from the Division of Justice and Crime Prevention which allowed it to contract with the International Association of Chiefs of Police to conduct a thorough study, on behalf of the Commission, to determine the need for and the establishing of a Central Crime Laboratory in Virginia including basic organizational structure, personnel, function and estimated cost.

The research team of the International Association of Chiefs of Police found that Virginia had no facility capable of providing *full-service* laboratory assistance to law enforcement personnel. The team found that despite the existence of the FBI Laboratory, the Bureau of Narcotics and Dangerous Drug Laboratory, the Virginia Medical Examiner Laboratory and other federal and State laboratories, a critical need existed for a Central Crime Laboratory. The IACP stated, "Although it might appear from the list of laboratory resources presently available that there are sufficient facilities available to meet Virginia's law enforcement needs, such an assumption would be grossly incorrect for the following reasons:

1. The index crime rate for the state of Virginia showed alarming increases from 1965 through 1969. During that period violent crime increased by 25.77 percent; property crime increased by 63.13 percent; and the total index of crime increased 57 percent. These

rising crime problems have placed a great strain on the present resources and structure of the state law enforcement institutions.

2. Rising crime rates have increased the federal, as well as the local, demands on laboratory facilities. As justified by their primary responsibility, federal cases are given first priority in federal laboratories and the District of Columbia is given second consideration.

3. There are no criminal forensic laboratories within the county and city law enforcement agencies in the State. The laboratory under the Office of the Chief Medical Examiner mainly provides autopsy, pathological, and laboratory services for medical-legal investigations. Other laboratories provide a variety of services; hence there is considerable fragmentation.

4. Skilled evidence technicians who can be called upon to search crime scenes not merely for fingerprints, but for potentially valuable evidence like footprints, hairs, fibers, or traces of blood or snow, are lacking in police departments of all sizes. Investigators and police officers do not receive sufficient training to be constantly aware of the developing technology applicable to crime scene search and later laboratory analysis.

5. Cameras, fingerprint kits, and other specialized equipment and materials for gathering evidence are in extremely short supply in most agencies. Evidence collection vans are not available in Virginia (with one exception). Adequate evidence storage facilities are completely lacking in many departments.

The effective prosecution of many types of crime depends heavily upon skilled and rapid collection of evidence and reliable, swift, and precise laboratory analysis of that evidence. This is especially critical in cases involving physical evidence which requires expert analysis and testimony. Recent national and regional studies have indicated a sharp increase in the type and number of crimes which require laboratory analysis for effective prosecution.

The IACP made three major recommendations:

1. A State laboratory system should be established immediately. The parent laboratory should be located in Richmond and three regional laboratories should be established in Northern Virginia, Roanoke, and Norfolk.

2. The system should be a separate organizational entity within the State government and should not be absorbed into an existing laboratory system.

3. It should be headed by a director responsible directly to the Governor.

In reaching their major conclusions the IACP looked at offenses, the population to be served and the volume of cases to be handled in a laboratory system. The investigating team felt that 90 per centum of felonious crimes committed, if properly investigated, would require services of the crime laboratory to analyze potential physical evidence and that by using the FBI annual uniform crime reporting program they could project a need for the particular facility of a crime laboratory needed. Additionally recent decisions by the Supreme Court of the United States in the Civil Rights field have emphasized more than ever the need for technological approaches to combating and detecting crime.

Due to the population of Virginia (in excess of 4 million) and the geographic expanse of the State the IACP reporters felt that a parent laboratory in Richmond with regional labs in Northern Virginia, Roanoke and Norfolk would be essential to meet the needs of law enforcement. These areas are readily accessible to law enforcement officers throughout the State.

The investigating team stated that the caseload in a crime laboratory is in direct proportion to the number of police officers and special investigators available for crime scene search and related investigation. This is referred to as cases-per-officer (CPO) formula for validating crime laboratory facility needs. The report stated "adequate service response time necessitates a decentralization of laboratories based on a combination of population, crime, data, and distance variables. A population of approximately one million unquestionably provides sufficient caseloads to justify the establishment of a regional laboratory. If one-way travel time from the most remote part of a region to the laboratory exceeds two hours, satellite stations should be considered. However, we do not believe these are necessary at the moment.

"On the basis of Virginia's topographical features, road system and population distribution, four locations should be considered; a main laboratory at Richmond and a regional laboratory in Norfolk, Northern Virginia and Roanoke. Roads to all sites are excellent and provide access."

The IACP contemplated that a close coordination would develop between the Central Crime Laboratory System and the Central Criminal Records Exchange to provide a data retrieval system meaningful to law enforcement officers in identifying offenders, classifying crimes and determining *modus operandi*. The report stated "it is vitally necessary, however, to tie the new Department of Forensic Science to the Central Criminal Records Exchange and to a proposed state-wide electronic information and data retrieval system."

The recommendation of the IACP was firm that the Central Crime Laboratory System should be in a separate department of government directly under the Governor.

Each regional laboratory as well as the Richmond Laboratory must have an operational capability, in addition to the duties of the medical examiner, as follows:

Chemical analysis section—This section will analyze and evaluate inorganic materials, explosives, fibers, hair, narcotics, paint, glass, arson materials, soil and building materials, blood, alcohol and toxic substances.

Biological analysis section—Will analyze physiological fluids and organic materials such as body fluids, semen, feces, saliva, urine and blood.

Physical examinations section—Will perform firearms examinations and analyze marks and impressions, maintain reference collection of firearms, cartridges, projectiles to be used for visual comparison of known specimens. Additionally, this section will have capability for examining, identifying and comparing auto parts, broken windows, electrical appliances, locks and keys and altered and deleted numbers.

Document examination section—Must be capable of examining instruments and documents in any manner by means of letters, figures, or marks which are used to convey a meaning, handwriting, typewriting, printing, stamps, writing materials, special problems, obscured writing or typing sequence, fasteners and adhesives. The capability will be specifically used in areas of forgery of checks, ransom and blackmail notes, negotiable certificates and similar items.

Technical photographic section—Will have capability in minute evidence, macrophotography, photomicrography, visual, infrared, ultraviolet light, radiography and filters and emulsions.

Latten fingerprint section—Must be able to develop, photograph and lift latten fingerprints from all items of evidence brought into the laboratory and have capability of classification and comparing lattens with suspect prints for identification.

Polygraph examination section—Provides polygraphic examinations upon referrals as an aid to investigators. This service cannot be used as a substitute for competent investigations nor as a panacea for shortcomings in investigative skills. On a selected basis, examinations should be given in an effort to determine the truthfulness of statements made by a suspect, victim, complainant, informant, or witness in connection with a particular offense.

Crime Scene Examinations Section—This will provide mobile laboratory vans and crime scene technicians upon request from law enforcement agencies. The primary function of a mobile van should be to survey crime scenes by properly recording the scene in notes and photographs detecting physical evidence, preserving it in its proper sequence, and interpreting the relation of the items and conditions found at the scene. The mobile unit should perform its functions for all types of crimes and should also be responsible for the safe removal and disposal of bombs and recovered explosives.

It may be that some sections will not be needed in every regional laboratory (e.g. documents examination); however, actual operations will determine the demand.

From the assignments that are expected to be carried out by personnel of crime laboratories it is evident that specialized and specific expertise is required of all members of the staff. Just any chemist or any biologist will not do. The difficulty of establishing a chain of custody of evidence is equally important to the findings by a given analyst in the crime laboratory. Determining the chemical content of an item, the author of a document or the owner of a fingerprint is useless if the chain of custody is broken so that the determination of the analyst is inadmissible in the criminal prosecution in court. Likewise the ability of the analyst to testify in a clear and understandable manner for a jury or a judge is imperative. Therefore, the staff of the Crime Laboratory, both parent and regional, must be law enforcement-oriented and specialized.

After the International Association of Chiefs of Police submitted their report to the Crime Commission, the subcommittee studied the report thoroughly and combined the information contained in the report with that obtained by the Committee in its direct investigation and hearings. The subcommittee filed its report on March 30, 1971 with the Virginia State Crime Commission. The text of the subcommittee's report is set forth herein in full:

Report of the Crime Laboratory Subcommittee
to the Virginia State Crime Commission

To the Honorable Stanley C. Walker
Chairman
Virginia State Crime Commission

Dear Chairman Walker:

After careful consideration of the Report of the International Association of Chiefs of Police, made following their survey of crime laboratory resources in the Commonwealth and recommendation for establishing a central forensic laboratory system in Virginia, this Subcommittee agrees with the following

general conclusions of that Association and recommends that they be adopted as recommendations of the full Commission.

1. A State laboratory system should be established immediately. The parent laboratory should be located in Richmond and three regional laboratories should be established in Northern Virginia, Roanoke and Norfolk as soon as practical.

2. The system should be a separate organizational entity within the State government and should not be absorbed into an existing laboratory system.

3. It should be headed by a director responsible directly to the Governor.

A regional crime laboratory is about to open in Northern Virginia and plans are well under way for the establishment of one in Tidewater. These two laboratories might well be integrated into the central system. Federal funds were provided for the Northern Virginia facility, through the Division of Justice and Crime Prevention, with this understanding.

In order to provide comprehensive forensic science services within any single agency, the office of the State Medical Examiner should be transferred from the Department of Health to the central crime laboratory system, and the drug analysis work, which is now performed by the Department of Agriculture and Commerce, should also be placed under its control.

A great deal of consideration was given by this Subcommittee to the placement of the system within the present State governmental structure, but it seems that a separate State agency is most practical. This system will involve highly scientific work and no present State agency is oriented to supervise such work. It must be established to give the best criminal laboratory service to all State and local law enforcement agencies on a fair and impartial basis. A separate State agency was suggested by a majority of police administrators who were interviewed throughout the State.

The key to the success of the establishment of such a system is the appointment of a well qualified director, who should not only be an outstanding criminologist, but also an excellent administrator. The International Association of Chiefs of Police reports that there are few such persons in the entire United States. In order to obtain the best director possible, an extensive search should be begun immediately.

There are sufficient funds available now to begin the establishment of such a crime laboratory system, most of which can be obtained from the federal government under the Omnibus Crime and Safe Streets Act. State matching funds, which can be used for this system, have already been appropriated to the Division of Justice and Crime Prevention.

The Commission should attempt to obtain an early appointment with Governor Holton to request his support for this effort. It is believed that the Governor, if he agrees with these recommendations, could authorize the initial steps in creating a central crime laboratory system by executive order. Legislation to create the separate State agency and to transfer the office of the Medical Examiner to its control could be enacted at the 1972 Session of the General Assembly.

Respectfully submitted,

S/ George S. Aldhizer, II
Chairman, Subcommittee

Members of Subcommittee:
Erwin S. Soloman
Flourney L. Largent, Jr.
William N. Paxton, Jr.

March 30, 1971.

The Commission felt that from an economic point of view it would be desirable to have one Central laboratory in the State with various functions and capabilities. This would avoid a duplication of staff and equipment in several laboratories. *Nevertheless, the need for a crime laboratory is urgent and such laboratory must be prepared to function for specialized purposes in a forensic rather than a research field; thus despite the existence of many other laboratories in the State it is the Commission's position that a crime laboratory should be established and exist in a Department of Forensic Science as a separate department of government.*

In cooperation with the office of the Governor and the Division of Justice and Crime Prevention the Virginia Crime Commission was successful in securing a grant through the Division of Justice and Crime Prevention for the establishment of the recommended laboratory facility immediately. Whereupon, cooperative efforts between the Governor's office and the Crime Commission were begun. There have been several meetings with the Governor and representatives of his office, members of the Crime Commission, and the staff of the Division of Justice and Crime Prevention unifying the efforts of establishing a Department of Forensic Science to operate the Central Crime Laboratory and the office of the Chief Medical Examiner pursuant to the Crime Commission's recommendation.

Since there are statutory changes that must be made, the function of the laboratory itself cannot be commenced prior to the next session of the General Assembly. Legislation is needed to create the Department of Forensic Science. Legislation is necessary to move the functions of the office of the Chief Medical Examiner from the Department of Health to the Department of Forensic Science. It is likewise necessary that the responsibility for drug analysis be moved from the Department of Agriculture to the Department of Forensic Science.

It is the unanimous feeling of the Virginia Crime Commission that a Department of Forensic Science must be established and commence functioning at the very earliest opportunity. This is the third recommendation of the Commission advocating the establishment of a Central Crime Laboratory system. Therefore, it is recommended that the legislation carry an emergency clause provision so that the Crime Laboratory and the office of the Medical Examiner functioning in the Department of Forensic Science can begin actual operation at the earliest possible date.

It is the firm belief of the Virginia Crime Commission that the establishment and existence of a Department of Forensic Science will be of immeasurable benefit to all law enforcement agencies throughout the State both at the State and local levels in combating all types of criminal activities including drug and narcotic abuse as well as offenses which are associated with organized criminal activity.

LAW ENFORCEMENT OFFICER'S TRAINING STANDARDS COMMISSION

Historically one of the most difficult burdens for law enforcement agencies to overcome has been acquiring and keeping adequately trained personnel. This problem is even more difficult today than it has ever been. The Crime

Commission is not unmindful of the fact that the obtaining of a central crime laboratory, the existence of the Criminal Records Exchange and help from a State Police Investigation Division will not in and of itself be successful in dealing with the problem of crime in the Commonwealth.

The courts of the nation have consistently, over the past ten years, handed down decisions protecting the civil rights of the accused which had the effect of requiring law enforcement officers to be more skilled and accomplished in their investigation, arrest and prosecutions of accused criminals. The days are now past when police officers can rely to any large extent on community tips and confessions to solve difficult cases. The crime fighter must be a well trained police officer to be effective. Secondly, criminals, especially those engaged in crimes against property and illegal drug traffic, have become extremely efficient and knowledgeable in their field. Thirdly, the crime rate itself has jumped in alarming proportions over the past decade.

The most expensive law enforcement facilities for fighting crime are of no value unless police officers are able to utilize the facility to establish the evidentiary case against an accused. An officer must also be able to present the same evidence in court, according to proper legal procedures and standards in order to achieve valid convictions.

Many law enforcement officers, particularly those in small rural communities, are not properly and adequately trained to occupy the sensitive and important positions that they now hold. This statement is not only true of the rural communities, but small cities and towns as well. Yet, law enforcement remains as it has always, the responsibility of the locality first and foremost. It is at that level that training, education and experience is an absolute must.

In its first report to the Governor and General Assembly of Virginia in 1967 the Virginia State Crime Commission recommended that there be established a Law Enforcement Officer's Training Standards Commission to promulgate minimum training standards for law enforcement officers throughout the Commonwealth. Pursuant to the recommendation, Chapter 16 of Title 9 of the Code of Virginia was enacted by the 1968 Legislature (Sec. 9-107 through Sec. 9-111) establishing such Commission. The Law Enforcement Officer's Training Standards Commission was funded sufficiently to commence operation by the 1970 Legislature.

The statute (specifically Sec. 9-111) exempted from the meeting of the training standards provisions any officer who was in a permanent appointment on July 1, 1968. That section was later amended to exempt those having permanent appointment on or before July 1, 1971.

Colonel Charles Woodson, former Superintendent of the Department of State Police, became the Director of the Law Enforcement Officer's Training Standards Commission in January of 1971. Colonel Woodson has commenced assembling a staff to implement the purposes and objectives of the Training Standards Commission. At present there is a former FBI agent as Administrative Assistant to Colonel Woodson, a Field Supervisor and two clerical employees.

The Commission is functioning with Colonel Harold W. Burgess, Superintendent of the Department of State Police, as its chairman. The Training Standards Commission has held four pilot schools throughout the State and is now in the process of approving several police academies so that actual classroom training can commence in the latter part of 1971. Police academies in Bristol, Roanoke, Richmond, Danville, Northern Virginia, Tidewater, Portsmouth and Lynchburg have been or are expected to be on the Commission's approved list by the end of 1971.

Where the Training Standards Commission is participating with an existing police academy the existing facility provides minimum training as required by the Training Standards Commission for all officers included in the program in the particular area of the State, usually a planning district. After all of the officers have participated in the training set forth by the Training Standards Commission the officers are graduated and the police academy continues with additional training for its local officers.

Due to the size of the State, the available funds and the need to commence training as soon as possible, the Training Standards Commission has adopted a basic plan to serve the more than 327 law enforcement agencies in Virginia that establish regional training schools where possible and create additional schools where no schools now exist. The establishment of new schools is of course a more difficult and time consuming project than utilization of existing facilities. The Training Standards Commission must acquire a suitable faculty for each school and arrange to conduct a school at a time most convenient to those who would be served by it. The current curriculum for officer's training is 160 academic hours plus 40 hours of field training. There is an immediate need to increase the staff of the Director of the Training Standards Commission to include more field directors, a field supervisor, assistant director (research analyst-office manager) and clerk typists.

Where schools are now in existence and operated by the various political subdivisions, it is anticipated that these institutions will be in a position to receive federal funds directly for their expanded purpose rather than relying exclusively on state funds.

There are budget requests made by the Training Standards Commission to fund the additional staff positions for the 1972-74 biannual period.

The Law Enforcement Officer's Training Standards Commission should commence the statutory training for officers appointed after July 1, 1971, in the latter half of 1971; however, unless federal funds and/or state funds are made available the project will have to evolve at a somewhat slower pace than what had been hoped by the Virginia State Crime Commission. Geographic expanse of the State, locating suitable faculty, coordinating with local police and sheriff's bureaus and having students available at times mutually suitable are recognized as factors contributing to the time needed to mature the project of the Training Standards Commission.

Nevertheless, despite the presence of these obstacles, the Crime Commission is extremely disappointed that no substantial numbers of law enforcement officers have yet been trained notwithstanding the fact that the program was instituted in 1968. There have been serious doubts expressed by some as to whether or not the Training Standards Commission will ever be able to get all law enforcement officers trained adequately.

Training of a basic nature is absolutely essential for law enforcement officers to maintain their proper place in the war against crime. The Commission recognizes that the Law Enforcement Officer's Training Standards Commission needs funds to operate and it also recognizes that the Law Enforcement Officer's Training Standards Commission must not let up but press even harder to see that the minimum standards program is complied with.

The Law Enforcement Officer's Training Standards Commission must begin in the very near future a realistic approach toward advanced training of key law enforcement personnel and investigators. The investigations of serious crimes require superior ability and training for officers charged with the duty of law enforcement.

The Crime Commission knows that if police officers can be properly trained and equipped the battle against crime in the Commonwealth can be waged much more effectively. The Crime Commission must keep in constant contact with the Law Enforcement Officer's Training Standards Commission and its progress to see that its program is coordinated with a Department of Forensic Science, the Central Records Exchange, an Investigation Division of the State Police, the Division of Drug Abuse and rehabilitation of offenders' programs.

The Central Criminal Records Exchange, a Department of Forensic Science, an Investigation Division of the State Police along with the Law Enforcement Officer's Training Standards Commission can form an extremely valuable chain for the purpose of law enforcement in Virginia. However, the training of law enforcement personnel must not be allowed to be the weak link that defeats the full effect of the other programs.

There have been many suggestions to the Crime Commission that a major problem in acquiring and maintaining law enforcement personnel at a high level of efficiency is the lack of funds available for compensation of law enforcement officers. It has been called to the Commission's attention that in many areas throughout the State the wages paid to police officers and deputy sheriffs is below the poverty level established by the National government. It is obvious that the caliber of police officers available to work at such income levels cannot meet the minimum standard requirements set up by the Law Enforcement Officer's Training Standards Commission. The question is not, should police officers and deputy sheriffs throughout the State be paid better; rather the question is in what realistic manner can such be accomplished. The Crime Commission feels very strongly that a major study by the Crime Commission should be undertaken focusing in this particular area.

ELECTRONIC SURVEILLANCE

At its meeting in Richmond on June 28, 1971, the Crime Commission heard a report from Mr. Lewis Powell, former president of the American Bar Association, concerning the necessity of Virginia adopting an electronic surveillance statute to allow law enforcement officers to use modern electronic eavesdropping devices in certain investigations. It is Mr. Powell's position that currently in Virginia it is unlawful to maliciously tap a telephone (Va. Code Ann. Sec. 18.1-156) under State law. Under the Federal Acts and case interpretation thereof evidence obtained by telephone taps and other secret electronic devices in all likelihood will not be admissible in evidence except in situations where the standards and guidelines set forth in Title 3 of the United States Code (18 U.S.C. Sec. 2516) are met. The most recent act of Congress allowed electronic surveillance, including telephone taps in areas of certain crimes where such method of investigation is authorized by a Court prior to their use. This act is commonly referred to as the wiretap law. Secondly, the act allows the President to determine such uses in National Security matters. The act provides that a State may enact similar legislation enabling State authorities to follow the same basic procedure as the federal authority of acquiring Court approval for wiretaps and other electronic surveillances in certain circumstances. The basis of the Federal statute is that the United States Constitution would prescribe uses which did not conform to the general principles of due process of law.

There are seventeen states that have enacted legislation allowing electronic surveillance in certain circumstances. Approximately eight of these states have used the Federal statute as a guideline in order to come within the purview of the Federal standards.

The United States Department of Justice and other users must report to

the Congress each year as to the number of requests that are made and granted for use of electronic surveillances in criminal investigations. There were 350 such uses in 1969, the overwhelming majority of which were by States' prosecutors.

The act provides that the Attorney General of the United States or designated assistants may apply to a Federal Judge for an order allowing wiretaps; but such requests must show that there is a reasonable cause for such use and that other means of investigation are not possible or have been tried and failed. There is a thirty-day time limit upon such usage and a report as to the result of the investigation must be made to the Court within ninety days. There are provisions for a thirty-day extension period, however such extension is not automatic and the same requirements originally needed to secure the use order must be met in order to gain the extension.

The Federal act further provides that where State law so provides the principal prosecutor of any State or subdivision thereof may apply to a State Judge for usage. The State law must parallel the Federal statute in its safeguards and requirements.

The order of the Court allowing such usage of electronic devices in investigations cannot be a blanket order, rather it must be specific based on probable cause.

The American Bar Association recommends that the renewal or extension be limited to fifteen days per application which may be done by State law since the State law may be more restrictive on the user than the Federal but not more liberal.

The Commission is concerned that safeguards be provided assuring that the evidence of probable cause exist before a judge enters an order allowing usage of electronic surveillance, and then only in exceptional circumstances should such order be entered. In addition there are questions regarding the expertise of police officers conducting electronic surveillances.

It is clear that results of electronic surveillance should be secret in order to preserve the right of privacy under the Constitution insofar as any other information gained by a wiretap or electronic surveillance without the scope of the crime and persons being investigated. Obvious questions arise in situations where the wiretap evidence is found of other crimes being committed by the principals being investigated, or by other persons. There is a fear that such taps would lead to abundance of material to foster blackmail should the results fall into unscrupulous hands.

Despite the fact that there are areas of serious concern the Commission feels in view of the findings of the Organized Crime Detection Task Force, the recommendations of the Attorney General of Virginia and law enforcement in general that a wiretap law should be enacted at the 1972 Session of the Legislature that will provide law enforcement with a much needed tool particularly in investigations of drug law violations.

The Commission recommends legislation that will follow generally the American Bar Association's standards as previously alluded to by Mr. Powell, with further restrictions to insure that individuals will be protected from unwarranted and unreasonable invasion of privacy.

The Commission believes that it is essential that the Judge who issues an order permitting wire tapping must not be the same Judge who later tries any case involving wiretap. This is true because sufficient probable cause for establishing and maintaining an electronic surveillance should clearly

demonstrate that the only alternative available in the investigation is a wiretap as well as what is expected to be produced by the wiretap. Where such required evidence is presented to the Court it would by its very nature be prejudicial in a later trial of the case if that Judge is allowed to participate. Even though, in many instances it would be burdensome, where a Judge issues a wiretap order he must disqualify himself in the trial of the case associated with the wiretap whether or not wiretap evidence is to be used.

The scope of electronic surveillance legislation must be limited to areas where a clear and present danger is shown to exist. The Organized Crime Detection Task Force says that in certain areas of organized criminal activity wiretap evidence is significant and in many instances it is the *only* meaningful evidence that can be obtained against conspirators and abettors. This is particularly true in drug law violations, gambling, extortion and bribery. As the Task Force report has pointed out organized crime in Virginia in 1971 exists most prevalently in illegal drug and gambling activities. It is the Commission's belief that in other areas of the law no such clear and present danger has been demonstrated and therefore feels that any wiretap legislation should be limited to felonies involving drug law violations, gambling, crimes of extortion and bribery.

It is felt by the Commission that where local law enforcement or the State Police recognize the need of a wiretap, that need should be made known to the Attorney General through the local Commonwealth's Attorney, whereupon the Attorney General or his designated assistant would apply to the Court having jurisdiction over the matter for an order permitting a wiretap if he felt probable cause was sufficient.

The skill required by law enforcement officials in activating and maintaining an electronic surveillance requires extensive technical training on any part of the law enforcement officers involved. The Crime Commission believes that legislation allowing electronic surveillance should strictly limit the actual conducting of wiretaps and other electronic surveillance devices to the Division of Investigation of the Department of State Police. Thus, after the Attorney General has obtained, at the request of the local Commonwealth's Attorney a court order permitting wiretap in the limited areas set forth herein, this order would be delivered to the Investigation Division of the Department of State Police who would actually perform the wiretap.

The bill should require, parallel to the federal statute, that a report be made to the General Assembly by the Attorney General each year stating the number of requests for electronic surveillance orders throughout the Commonwealth and the number actually granted. This provision would be in addition to the reporting requirements in the federal act requiring reports to the United States Congress.

The use of any information obtained by electronic devices must be limited by law to the specific crime and for the limited purpose stated in the permitting court order. Any other use should be unlawful. Those who divulge information obtained as a result of electronic eavesdropping without the existence or scope of a permitting court order should be subject to prosecution.

With the foregoing safeguards in mind the Virginia Crime Commission supports the recommendation that an electronic surveillance statute be enacted by the General Assembly.

ORGANIZED CRIME IN VIRGINIA

The Organized Crime Detection Task Force submitted the report of its findings and recommendations to the Crime Commission in December, 1971. The report will be submitted to the Governor, the General Assembly and released publicly under separate cover. The Organized Crime Detection Task Force was created by the Virginia State Crime Commission to study the presence and extent of organized crime in Virginia and to recommend methods of discovery and eradication of organized criminal activity in the Commonwealth. The Task Force was composed of members of the Judiciary, law enforcement personnel, attorneys and others with background and interest associated with protecting society against the inroads and erosions of organized crime. The Task Force operated with a staff, headed by Director Harold E. Seyller, consisting of trained investigators with many years experience in criminal investigation.

The efforts of the Organized Crime Detection Task Force and the Virginia Crime Commission have been coordinated and close cooperation has prevailed, however, the Crime Commission has not attempted to direct, control or influence the findings or recommendations of the Organized Crime Detection Task Force although many of the findings and recommendations of the Task Force have closely paralleled findings of the Crime Commission through its own hearings and investigations. The recommendations of the Organized Crime Detection Task Force in many instances are identical to those of the State Crime Commission and in almost every instance the Organized Crime Detection Task Force's findings and recommendations reinforce and support position of the Crime Commission.

The Virginia State Crime Commission has received and reviewed the report of the Organized Crime Detection Task Force in detail and, although the report of the Organized Crime Detection Task Force to the Crime Commission is being released under separate cover, the Crime Commission feels that its comment will be helpful to the Governor, members of the General Assembly and the public at large in determining, both for the present and the future, the course that should be followed by the Commonwealth of Virginia in the struggle against crime including that which may be defined as organized.

Each of the recommendations submitted by the Organized Crime Detection Task Force will be discussed separately.

Continuation of the Virginia State Crime Commission

The first recommendation of the Organized Crime Detection Task Force is that the Virginia State Crime Commission be made a permanent body with appropriate powers and adequate operating staff. The Task Force emphasizes the "watchdog" functions of the Crime Commission particularly with respect to investigations of alleged misconduct in office by public officials. A section on the Virginia State Crime Commission in the future is included in this report detailing the functions of the Virginia State Crime Commission as a permanent body.

Electronic Surveillance

The Organized Crime Detection Task Force urges strongly that an electronic surveillance law be passed by the Commonwealth. The Task Force felt that the law should be drawn within the guidelines of the Federal electronic surveillance statute. Investigations of organized criminal activity, particularly, when the investigation focuses on the hierarchy of criminal organization, require electronic eavesdropping evidence to sustain arrest and convictions of those responsible for but not always present in the final stages of the

commission of the crime. The Crime Commission has devoted a section of this report to setting forth its position on electronic surveillance legislation.

Search and Seizure

The Task Force recommends that the search and seizure law in Virginia be amended to authorize the search of persons as well as places and to broaden the description of items for which searches may be authorized. The basic approach of the change is that the specific items now listed in the statute for which search warrants may be authorized should be eliminated and a generic approach be taken, allowing the search for any instrument, articles or other things which may have been used in the commission of a crime or which may constitute evidence against a person to be tried for a specifically alleged crime as well as any fruits or objects of a crime and contraband.

The Crime Commission supports the broad recommendation of the Task Force, however, much caution must be used in the actual drafting of the legislation to insure that the statute law will meet in the constitutional requirements insofar as the protection of individual liberty is concerned. *The Crime Commission is opposed to any legislation that could be classified as permitting a general search warrant and feels strongly that probable cause must exist in every case that a crime has been committed and the items to be searched for were used in the commission of the specified crime or would constitute evidence against a person to be tried for the crime alleged before search warrants are allowed. The search warrant should permit searches of places and persons for fruits or objects of crimes and contraband but in each instance the crime must be specified in the affidavit supporting the issuance of the search warrant.* The probable cause affidavit in support of a search warrant must be specific and include all the essentials now prescribed in the law including the description of the place or person to be searched, the things to be searched for, a brief statement of material facts constituting the probable cause for belief that the items sought will be found. Again, no search warrant should be issued under the laws of the Commonwealth of Virginia nor should the law permit the issuance of any search warrant omitting the essentials of probable cause or allow a general warrant for the search of a house, place, compartment, vehicle, person or baggage.

Conspiracy Laws

The Task Force recommended that the conspiracy law (Va. Code Ann. § 18.1-15, et seq.) be amended to enlarge the crime of conspiracy in Virginia so that in any case where a person conspires or combines with another in Virginia to commit any felony in or out of Virginia that person will be guilty of a felony and punished the same as for the felony conspired to be committed. The present statutes make conspiracy to murder, rape, rob or abduct any person, commit arson, commit burglary, commit larceny or embezzlement a crime to be punished with different specific punishments for each type of conspiracy. An attempt or a conspiracy to commit offenses defined in the Virginia Drug Control Act is a crime punishable as is the commission of the defined offense.

The Crime Commission supports an amendment to the Code that would make the conspiracy to commit any felony within or without the State a felony in and of itself. The Crime Commission does not believe that the felony of conspiracy should warrant the same punishment as does the consummation of a specific felony. For example the Commission feels that it is not appropriate that the death penalty be potentially imposed in a conspiracy to commit murder as it may be where an actual murder is committed. *A statute making conspiracy to commit any felony, a felony in and of itself, with punishment provisions similar to those for attempts to commit crimes* (set forth in Va. Code Ann. §18.1-16,

§18.1-17, §18.1-18) *would be most appropriate*. There the conspiracy to commit a capital crime would carry the punishment of confinement from one to twenty years in the penitentiary; the conspiracy to commit a non-capital felony would carry the punishment of confinement in the penitentiary for one to ten years, or in the discretion of the trier of fact confinement in jail not exceeding twelve months and a fine of \$1,000.00 either or both; attempts to commit felonies punishable by a confinement in the penitentiary for a period of less than five years would carry the punishment of confinement in the penitentiary for one year or in the discretion of the trier of fact confinement in jail not exceeding twelve months and a fine of \$500.00 either or both. This change should meet the major objectives of the Task Force.

Witness Immunity

The Task Force believes that Virginia should have a statute which allows the State to grant immunity to witnesses in criminal investigations and prosecutions where it is felt that in so doing evidence thereby obtained could be used in prosecuting other criminals whose conviction would be more meaningful and in the best interest of the Commonwealth. Presently the State law allows immunity in very few areas such as the drug control act (Va. Code Ann. §54-524.107:1). The Crime Commission is strongly urging that immunity powers be granted to the Commission for its use in investigating for legislative and other purposes within the scope of the Virginia State Crime Commission.

The Crime Commission feels that enactment of a general immunity statute with appropriate safeguards should be enacted. Any general immunity statute should allow immunity to be granted by the Commonwealth's Attorney or the Attorney General, in cases where his office is prosecuting, with the consent of the appropriate circuit court judge. An immunity statute should be limited to use only in cases when the best interest of the Commonwealth can be served by granting immunity to a witness and should only be granted within the sole discretion of the prosecuting attorney and the circuit court judge. These statutes should be drawn differently from Va. Code Ann. § 54-524.107:1 in that that statute gives automatic immunity where a person testifies or produces evidence which is self-incriminating in the prosecution of another defendant. The granting of immunity should be a positive act of the State and where immunity is granted a witness he may be compelled to testify or produce evidence since his statements or evidence cannot then be self-incriminating in a State prosecution. *The Crime Commission believes the statute granting immunity should be a general one and all other immunity statutes such as § 54-524.107:1 be repealed. The immunity statute for the Crime Commission would necessarily be separate as it does not involve the Commonwealth's Attorney or a circuit court judge since many of the investigations of the Crime Commission have not reached the prosecution stage.*

Joinder of criminal actions

Under the present Virginia law one accused of a felony may elect to be tried separately where there are other defendants charged in the same occurrence. The Organized Crime Detection Task Force recommends that the law (Va. Code Ann. §19.1-102) be changed so that the court may order a separate trial when either the defendant or the Commonwealth would be prejudiced by a joinder of offenses or defendants. Also the Task Force recommends that the statute (Va. Code Ann. § 19.1-259) dealing with trials of cases where the same act is a violation of more than one statute either state or federal be amended from its present form which now provides that where an act is a violation of two or more statutes, ordinances, etc., a conviction under one statute is a bar to prosecution or proceeding under the others even if one is a federal statute. The Task Force recommends that in a case where a violation of two or more statutes arises out

of the same criminal act or transaction that the defendant may be prosecuted simultaneously under all applicable statutes, however, where the State prosecutes on less than all applicable statutes, no further prosecutions would be possible under the unused statutes.

The Crime Commission supports the Task Force recommendation in principle but feels that care must be used in the wording of the statutes so that the rights of individual citizens as well as those of the Commonwealth are protected.

Prosecutions by the Attorney General

The Virginia State Crime Commission supports the position of the Task Force in that the Attorney General of Virginia should be given statutory authority to initiate and prosecute criminal cases involving corruption in government and misconduct of public officials when there is a refusal or failure on the part of the local Commonwealth's Attorney to prosecute. The Crime Commission has suggested that it be given authority to conduct investigations within the guidelines set forth in the section on The Future of the Virginia State Crime Commission in this report. *Where the Crime Commission or any other appropriate body or agency discloses to local prosecutors the probable existence of corruption in government or misconduct of public officials and the local authorities fail or refuse to prosecute the Attorney General should have the power and authority to initiate and conduct the prosecutions.*

Where the local Commonwealth's Attorney seeks assistance from the Attorney General's office in any criminal prosecution, the Attorney General should have the statutory authority to provide the assistance requested. The Organized Crime Detection Task Force feels that these recommendations would be most important in strengthening law enforcement generally at the post-investigation stage. This position is supported completely by the Virginia State Crime Commission.

Professional Gambling

In Virginia conviction for operating a lottery is a felony, however, conviction of accepting debts on horse races and athletic contests is a misdemeanor. The Organized Crime Detection Task Force recommends that all professional gambling enterprise, including horse race betting, betting on athletic contests or conducting lotteries would be felonious. The Crime Commission supports the recommendation of the Task Force in that crimes for conducting professional gambling activities should be made felonious. *The thrust of the law should be to make it felonious for one to engage in or conduct gambling enterprises as a professional business operation.* The Crime Commission does not recommend that all persons participating in illegal gambling activities be convicted of felonies. The distinction is the mere participation or involvement in minor gambling activities as opposed to conducting or engaging in organized professional gambling activities.

Revision of narcotics and drug laws

The Task Force feels that the State laws on drugs and narcotics should be revised to conform with the Uniform Control Substance Act. This area has been under consideration by the Virginia Commission on Narcotics and Drug Laws and the report of that commission should provide significant data in this area. The Crime Commission has addressed this topic in the section of its report on Drug Abuse. The primary responsibility for the actual study and drafting of the drug law *per se* is that of the Commission on Narcotics and Drug Laws.

Inspection of Pharmaceutical records

The Task Force recommends that the State law permit law enforcement officers the right of inspection of records of drugs required to be maintained by a pharmacy. This matter is under consideration by the Virginia Commission on Narcotics and Drug Laws and should be commented on in that report.

Unprofessional conduct of pharmacists

The Task Force feels that the present law defining unprofessional conduct of pharmacists should be amended in certain areas. This is an area of consideration by the Commission of Narcotics and Drug Laws and reference is made to that report.

Presumption of Knowledge by Persons Possessing Stolen Property

The Task Force recommends that the Virginia Law be amended to create a presumption of knowledge by a possessor of stolen property. The recommendation is directed toward assisting law enforcement in apprehension and prosecution of persons fencing stolen property. The Task Force feels that under present law it is difficult to establish the requirement that such persons have acknowledged that the property that they receive has been stolen.

Under the present statute, Va. Code Ann. §18.1-107 and the case interpretation (*Stapleton vs. Commonwealth*, 140 Va. 475, 124 S.E. 273 and subsequent cases following that doctrine), evidence of recent possession is relevant before the trier of fact to establish the requisite knowledge that the goods were stolen. Recent unexplained possession of stolen goods is a circumstance for consideration to determine knowledge that the goods were stolen. However, the mere possession of stolen goods unsupported by other proof is not evidence that the possessor received the goods knowing them to have been stolen. The Crime Commission believes that the current status of the law as interpreted by the Supreme Court of Virginia is adequate to cover the situation in prosecutions for receiving stolen property since the prosecution may introduce evidence that the accused had in his possession recently stolen property whereupon the trier of fact may conclude on that evidence that the accused received goods knowing them to be stolen. The accused may, of course, explain the reason for possession of the stolen property, however, the trier of fact is not bound by his explanation. Thus, the status of the law now in effect creates a presumption of knowledge where the Commonwealth can show that an accused has recently stolen property in his possession and a conviction can be thus sustained. *Therefore, the Commission does not recommend that the statutes on the subject be amended.*

Presumption Regarding Illegal Entry

The Task Force feels that the law should be changed in Virginia so that a presumption would be created that a person making an unexplained illegal entry did so for the purpose of committing a felony or larceny. This change is sought to make it easier to obtain convictions for feloniously breaking and entering since it is a requirement that a breaking and entering must be for the purpose of committing a felony or larceny in order to be a felony in and of itself. The Task Force feels that it is difficult to prove the subjective intent by objective evidence and therefore seeks to create a presumption of intent simply because the illegal entry took place.

The Crime Commission disagrees with the Task Force and recommends that no such presumption be enacted into law. The effect of such presumption would make any illegal entry for any purpose whatsoever a potential felony.

Thus, any entry into a structure by any person which is without the appropriate consent of the owners or custodians would be presumed to be felonious in all circumstances.

The case law has adequately developed that circumstantial evidence may be introduced to prove the subjective intent of an offender. Therefore, the Commonwealth has the burden of showing by circumstantial evidence the method of entry, the place of entry, the factual developments after the entry to establish whether or not the accused intended to commit larceny or any felony within the structure illegally entered. *The Crime Commission feels that the present law is adequate in this area and should not be amended.*

Increase Staff of The Virginia Department of State Police

The organized Task Force feels that the investigative staff of the State Police be increased and trained to investigate organized crime and to further support and supplement local investigation of criminal activities upon request. The Crime Commission dealt with a specific application of this recommendation in this report in the Section on Drug Abuse and Narcotics. The Crime Commission recommended there that an investigation division of the State Police be established with the responsibility for investigation and intelligence on a state-wide basis in the area of drug law enforcement which has previously been assigned as a responsibility of the State Police. The Crime Commission believes that such investigation division, with investigative and intelligence responsibility, should be established by the Department of State Police to function; in the drug law enforcement area as previously stated, in coordinating law enforcement efforts pertaining to individuals and organizations whose illegal activities extend beyond the boundaries of any one political subdivision, in conducting investigations of major criminal organizations of unusual scope, by acting as liaison with federal enforcement agencies and agencies of other states, by being able to respond to local law enforcement requests for specialized skills and investigations and to maintain an intelligence section for assistance of all law enforcement throughout the State.

There is no question that the Commonwealth needs an investigation division within the Department of State Police to carry out the foregoing duties.

As the Task Force points out, it is impossible for state-wide law enforcement to succeed without an expanded role being taken by the Department of State Police in investigations and intelligence operations. *The Crime Commission envisions and recommends that there be established an investigation division, with investigation and intelligence capability, within the Department of State Police as soon as practicable to function closely with the Department of Forensic Science, the Central Criminal Records Exchange, and local law enforcement officers in spearheading the state-wide fight against crime.*

Statewide Intelligence System

The Task Force has recommended that there be established a statewide intelligence system with the capability to identify organized crime in Virginia. The Commission is in full accord with the Task Force in this recommendation as discussed in the preceding paragraphs. *The only logical place that such an intelligence system could function is in a division of investigation within the Department of State Police.* That division should, in addition to its investigative capability, obtain information from various sources, assemble and analyze such information so that the most up-to-date and comprehensive knowledge of criminal activity in Virginia, particularly in the organized crime area, will be available for law enforcement purposes throughout the state. Obviously, a

state-wide system would have to be supported by local systems using compatible methods.

A Uniform System for Reporting Instances of Drug Abuse

The Crime Commission supports the Task Force's suggestion that a uniform system be created in Virginia to receive data and report on incidences of drug abuse. The Crime Commission feels that the basic responsibility for such a system would be that of the Governor's Council on Drug Abuse. *The Governor's Council should collect information from the various sources throughout the state on Drug Abuse, including district councils, treatment centers, schools, medical agencies, and the State Police (including Central Criminal Records Exchange information and data from other law enforcement agencies).* The Department of State Police should be responsible for gathering data on drug abuse from law enforcement agencies throughout the State. This information from all law enforcement sources would be made available to the Governor's Council on Drug Abuse and would be correlated with the information from other sources. The Council can then serve as a data bank to maintain in one place as much information as possible on the incidences of drug abuse in Virginia.

Provisions of Funds for Law Enforcement Agencies to Purchase Contraband and Pay Informers

The Task Force feels that the State should provide funds to local law enforcement agencies for the purchase of evidence in contraband cases, specifically for purchases of illegal drugs. Law enforcement agencies must be in a financial position to buy large quantities of drugs from major sources in order to get evidence against large drug suppliers. At present, most local agencies have very little, if any, funds available for such "buys", and, therefore, are able to arrest and convict only small pushers and users. The same comments are true with regard to payment of informers for information. Much evidence can be obtained by that method, however, the cost is expensive and is generally beyond the means of local law enforcement agencies. *The Commission suggests that a discretionary fund for these purposes be established. The funds should be managed by the Department of State Police who must set up standards, procedures, and priorities to determine where such monies will be spent and must thereafter monitor the use of such monies.* It is felt that this fund should be in addition to the monies the State Police needs for its own use in this regard.

With such funds local law enforcement agencies would be able to apply to the Department of State Police for funds to buy contraband or pay informers according to the standard procedures set up by the State Police, and, after the receipt of such funds, the use would be monitored by the Department of State Police to insure that the most efficient usage is made of the monies to acquire evidence for convictions of major offenders.

Organized Crime Prevention Council

The Task Force encourages the establishment of an organized crime prevention council. It is thought that such a council would be small in number made up of law enforcement oriented individuals for the purpose of acting in an advisory capacity on matters involving organized crime. The Crime Commission feels that the basic concept of the Task Force is sound. *The Crime Commission, however, does not desire to see additional independent councils and committees established but rather that the Crime Commission itself be authorized to appoint committees of persons, who are not necessarily members of the Crime Commission to advise and consult with the Commission on specific points of interest to the Commission including organized crime.* By this method, the staff

of the Crime Commission would be available to assist any specific committee established by the Commission to advise it on a particular subject, thereby allowing any committee to function somewhat as did like the Task Force.

Advanced Training of Law Enforcement Officers and Training Related to Organized Crime

The Task Force feels that the Law Enforcement Officers' Training Standards Commission should include in its training programs appropriate training related to organized crime. The Crime Commission supports this recommendation and feels that the comments made regarding the Law Enforcement Officers' Training Standards Commission in that section of this report is pertinent. The Crime Commission urges the Law Enforcement Officers' Training Standards Commission to commence a program of advanced training for law enforcement officers including training related to organized crime. The Task Force recommends that advanced and specialized training of police officers be undertaken immediately by the Law Enforcement Officers' Training Standards Commission. *As has been previously stated, the Crime Commission is fully aware of the difficulties encountered by the Law Enforcement Officers' Training Standards Commission in getting its basic program of law enforcement officers' training underway, however, the time has now come to expand the program to provide basic training for all law enforcement officers in Virginia and to commence immediately with programs of advanced and specialized training including organized crime.*

Minimum Standards for Salaries and Fringe Benefits for Law Enforcement Officers

The Crime Commission agrees that evidence indicates a necessity to evaluate the current situation in Virginia regarding the salaries and fringe benefits of local law enforcement officers. In the section of this report pertaining to the continuation of the Virginia State Crime Commission, it is pointed out that a significant and critical area for study by the Virginia State Crime Commission is that of determining ways and means to upgrade the compensation of law enforcement officers throughout the State. In order to procure and maintain law enforcement officers who are able to meet the standards required by law enforcement, where a premium is placed on technical skills due to court decisions, increased sophistication of criminal activity and the availability of additional tools for crime fighting, adequate financial compensation is an absolute necessity. *The creation of additional departments, scientific laboratories, record exchanges and educational opportunities mean very little in the fight against crime if qualified personnel cannot be attracted or kept in law enforcement.*

Public Information

The Task Force recommends that the Virginia State Crime Commission take appropriate steps to inform the public regarding all organized crime with particular emphasis on informing leaders of the business world. The report of the Organized Crime Detection Task Force is available for public distribution. The report has been made available to the Governor and the General Assembly independent of the report of the Virginia State Crime Commission. This is true notwithstanding the fact that the Organized Crime Detection Task Force functioned under the Virginia State Crime Commission. *Certainly, as suggested in the section of this report on the Future of The Virginia State Crime Commission, a vital role of the Crime Commission is to keep the public informed as to the existence of all types of criminal activity throughout the Commonwealth, particularly organized crime.*

Metropolitan Enforcement Groups

The Task Force feels that local government officials should give consideration to establishing metropolitan enforcement groups where they do not now exist. Much criminal activity in metropolitan areas, particularly organized crime, takes place beyond the boundaries of one political subdivision. Cooperation between the law enforcement agencies of the local counties and cities in the metropolitan areas is absolutely essential to good law enforcement.

The Crime Commission supports the recommendation of the Task Force and encourages that metropolitan enforcement groups be set up in localities with law enforcement officers from each locality in the area participating in the metropolitan enforcement group. These groups should cooperate with State Police, not only in the investigation of specific crimes, but in the dissemination of intelligence.

The Organized Crime Detection Task Force

The members of the Virginia State Crime Commission are most appreciative of the effort of the Organized Crime Detection Task Force and its staff and the manner in which it conducted its inquiry and presented its report and recommendations to the Crime Commission. The Virginia State Crime Commission has considered the report and the recommendations of the Organized Crime Detection Task Force and commends the full report and recommendations to the members of the Legislature, His Excellency The Governor, and the citizenry at large. The Crime Commission envisions that an organized crime advisory committee in the mold of the Organized Crime Detection Task Force should continue to function as a committee of the Virginia State Crime Commission composed of individuals asked to serve in that capacity by the Virginia State Crime Commission. The staff of the Crime Commission must be adequate to support the requirements of an organized crime committee as well as other endeavors of the Crime Commission.

THE VIRGINIA STATE CRIME COMMISSION IN THE FUTURE

"States that have organized crime groups in operation should create and finance organized crime investigation commissions with independent, permanent status, with an adequate staff of investigators, and with subpoena power. Such commission should hold hearings and furnish periodic reports to the Legislature, Governor, and law enforcement officials."—The President's Commission on Law Enforcement and Administration of Justice.

The Need for Continuation of the Virginia State Crime Commission as a permanent body

Prior to 1966, when the General Assembly created the Virginia State Crime Commission, there was no legislative unit in a position or with the authority to investigate the full spectrum of crime and criminal justice. There has been created by the Legislature, from time to time, commissions and agencies to study specific questions pertaining to crime and crime control. The Virginia State Crime Commission has reviewed the broad question of causes of crime, specific criminal law, law enforcement and rehabilitation of criminal offenders in addition to particular study assignments by the Legislature since its inception.

A Commission that is legislative based, not subject to the control of any specific governmental agency and not subject to specific political pressure, is necessary as an information gathering force for the General Assembly. In the future when the Legislature enacts, amends or modifies existing laws in the

area of crime and criminal justice, it must do so with information and recommendations of its own commission.

A permanent commission can anticipate and investigate problem areas before they become widespread enough to require a study by legislative mandate. It is imperative that a continuing crime commission be established with an adequate staff and budget to anticipate and report to the Legislature on areas of concern before the Legislature must make a specific request for study in a given area. The Commission would, of necessity, continue to function to conduct specific requests that might be made from time to time.

The existence of crime commissions at state and local levels are being recognized in as potent a force as society's war against crime. Such crime commissions must be as free from outside influence as possible. The President's Commission on Law Enforcement and Administration of Justice, in recognizing the effectiveness of crime commissions, states as follows:

"Among the most effective vehicles for providing public information on organized crime are the crime investigating commissions, which exist in a number of states. When established without having to rely on continuing governmental financial support and the resulting potential political pressures, the private crime commission has frequently rendered major service in exposing organized crime and corruption and arousing public interest. The Chicago Crime Commission and the Metropolitan Crime Commission of New Orleans have played major roles in informing the citizens within their jurisdictions of the menace of organized crime and have fulfilled substantial educational, investigative, and legislative functions.

"Where a governmentally sponsored nonpartisan crime commission is created, as with the New York State Temporary Commission on Investigation, significant benefits have resulted. Established shortly after the Appalachian meeting, it has through a series of public hearings exposed organized crime and corruption. Recent loan-shark hearings prompted legislative action to make prosecution of such offenders less difficult. The Illinois Crime Commission, through public hearings and the efforts of its own investigators, continually exposes organized criminal activity. A governmental commission in California detailed the operations of criminal cartels in that State in the early 1950's and recommended action that subsequently proved effective."

Crime commissions, such as the Virginia State Crime Commission, have been effective in many areas as illustrated by the following quote from the President's Commission regarding organized crime:

"Crime investigating commissions financed by State governments, such as in New York and Illinois, have proved to be effective for informing the public about organized crime conditions. Legislative proposals to combat organized crime also result from the hearings of these committees."

The President's Commission on Law Enforcement and Administration of Justice supports states maintaining a permanent crime commission:

"States that have organized crime groups in operation should create and finance organized crime investigation commissions with independent, permanent status, with an adequate staff of investigators, and with subpoena power. Such commissions should hold hearings and furnish periodic reports to the Legislature, Governor, and law enforcement officials."

"Independent citizen crime commissions in metropolitan areas can provide enlightened resistance to the growth of organized crime and to the formation of alliances between it and politics. A citizen crime commission can give reliable and determined community leadership to assess the local government's effort

to public support for government agencies that have committed resources to special organized crime drives, monitor judicial and law enforcement performance, organize public responses, and enlist business cooperation against infiltration by organized crime.”

The Attorney General of Virginia summarized the issue of continuing the Crime Commission on a permanent basis when he said, “Criminal activity is not susceptible to instant solution. Virginia needs a permanent State Crime Commission with an adequate budget and full time staff. A permanent commission can have greater success and continuity than a commission continued from time to time by the Legislature. A permanent legislative based crime commission with sufficient staff to investigate and hold hearings is an essential ingredient of the State’s crime fighting forces.”

Areas Needing Attention Now

There are three basic functions of a crime commission in Virginia.

They are as follows:

1. To investigate and recommend to the Legislature statutory law changes.
2. To inform the public in areas of public concern, such as the existence of organized criminal activity, corruption in government and misconduct in office by public officials.
3. To conduct investigations of misconduct in office or corruption in government.

The Crime Commission is aware of the difficulty in having an existing state agency in the executive branch investigate misconduct or corruption in another state agency or local governmental unit. Where, in the past, this has been necessary, the liaison between the investigation agency and other agency has been damaged, such as, when the State Police is called on to investigate activities in a local police department. The mistrust that develops has deep and far reaching effects detrimental to the necessary cooperation vital in the overall fight against crime. The permanent Crime Commission should have the authority, as a secondary charge, to investigate governmental agencies accused of corruption and persons charged with misconduct in office. The results of such investigating would, when positive, be turned over to the local prosecutor or governmental officer with power of removal.

The Organized Crime Detection Task Force recommends that Virginia establish a permanent state crime commission with a full time staff and specifically recommends that the following be studied by the Commission:

1. Revision of record keeping at State level to provide meaningful statistics for criminal justice planning.
2. Development of intelligence gathering, storage and retrieval system. (The International Association of Chiefs of Police in their report to the Virginia Crime Commission recommended that there exists in Virginia a sophisticated data gathering storage and retrieval system as mentioned in the section of this report on the Department of Forensic Science.)
3. Need for liaison with neighboring states in law enforcement planning.
4. Education of the public, and especially business leaders, in the methods used by organized crime to infiltrate legitimate businesses.
5. Methods of evaluating and monitoring use of Federal funds.
6. Re-structuring of State Police Department.

There are other subjects that need the attention of the State Crime Commission. In this report in the section dealing with Penal Reform and Rehabilitation of Offenders, it is well demonstrated that much effort is being made and will be made in this critical area of the fight against crime. The Crime Commission must keep constantly informed and aware of the goals, policies and practices of the penal system. If a penal system is to be designed that can cope with added demands and restraints, it must be carefully coordinated with the other areas of law enforcement and administration of justice. Special studies should be conducted by the Commission to determine the feasibility and desirability of new and different approaches to incarceration of criminal offenders. Much thought and information must be directed to developments such as community based correctional institutions where inmates are allowed to mingle with the public; structuring institutions to increase the rehabilitation programs by classifying inmates according to predetermined criteria pertaining to psychology, education, skill, etc.; establishing many small institutions rather than one or two large penal institutions. Steps must be taken to avoid in Virginia the type of upheaval that has been prevalent recently throughout the Nation in penal institutions such as Attica, New York.

In the section of this report on the Law Enforcement Officer's Training Standards Commission, comment was made regarding the low pay scales for many law enforcement officers in the State. The Crime Commission must undertake to determine how the minimum qualification levels of law enforcement officers can be attained statewide. Re-evaluation of pay scales of law enforcement personnel is critical to that issue. It is apparent that, due to the current wage levels in many localities, qualified law officers or those who could become qualified law officers are simply not available. Inquiry must be made to find ways and means to raise the compensation of many law enforcement personnel. A significant question here is whether or not there should be state participation in local law enforcement compensation and, if so, to what extent. In order to have law enforcement officers who are qualified to utilize the new tools being made available in the fight against crime, methods must be developed to attract competent people to the field of law enforcement. More study is necessary by the Crime Commission in order that appropriate recommendations in this area can be made.

An attack on crime must be made by determining as far as possible the conditions in society which create a favorable climate for criminal activities. Much information before the Commission substantiates that crime, particularly crimes against property, crimes of violence and drug abuse crimes are much more prevalent in areas of population density and sociological and economic depression. The relationship between socio-economic deprivation, population density and low educational standards, and the existence of crime must be examined, and a continual quest for solutions within the realm of possibility must be sought.

Finally, as previously pointed out, the Commission needs to give considerable attention to the desirability of legislation permitting electronic surveillance by police officials pursuant to established guidelines for the protection of individual freedom.

Structure of the Virginia State Crime Commission

The Crime Commission bill provides for a permanent legislative based commission, with an adequate staff including an executive director and investigators, subpoena power and power to grant immunity from prosecution, to conduct investigations and studies for the Legislature and assisting in or conducting investigations where there is alleged misconduct in public office or corruption in government.

The Crime Commission should continue to be composed of the qualified members who have served in the past. The Commission feels that the Attorney General should be a member of the Commission. The membership of the Commission should be made up of members of the House, the Senate and the State at large with staggered terms after the initial organizational period has elapsed.

Unless the Commission is sufficiently budgeted to provide for a qualified staff, its effectiveness will be considerably diminished. It is essential that the Commission have an executive director and an investigator on a full time basis along with basic clerical help. The Commission should be in a position from time to time to call upon outside resources in special areas such as accounting and law where necessary.

The Commission will necessarily retain its subpoena power and in addition should have the power to grant immunity from criminal prosecution after proper notice to the interested Commonwealth's Attorney, when investigating criminal activity. This is particularly true where the investigation concerns organized criminal activity and racketeering, corruption in government, or misconduct by a public officer. The granting of such immunity should be rarely and discreetly invoked; however, there are times when, in order to get a clearer picture of a criminal situation, it is necessary to encourage certain involved individuals to testify before the Commission, where only considerations of State law are involved. The granting of immunity would have the effect of requiring the witness to testify since he is not subject to prosecution and therefore his answers are not self-incriminating. The main consideration is whether or not the obtaining of information is more critical in the overall fight against crime than for the prosecution of a particular witness.

In the final analysis a Virginia State Crime Commission must continue to function as an advisory body to the Legislature with adequate staff and power to investigate, interpret and recommend throughout the spectrum of crime and crime control. Appropriate steps are needed from time to time to marshal and coordinate the activities of government and the private citizen to combat the costly and elusive common enemy, *crime*.

Respectfully submitted,
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