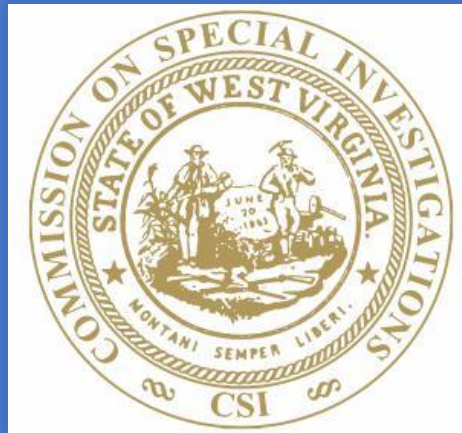


CSI:

WEST VIRGINIA LEGISLATURE'S COMMISSION ON SPECIAL INVESTIGATIONS

39TH ANNUAL REPORT

JULY 1, 2018 – JUNE 30, 2019



**MITCH CARMICHAEL – SENATE PRESIDENT
LIEUTENANT GOVERNOR**

ROGER HANSHAW – SPEAKER OF THE HOUSE

CHARLES R. BEDWELL - DIRECTOR

**West Virginia Legislature's
Commission on Special Investigations**

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Mission Overview

The Mission of the Commission on Special Investigations is broadly outlined under Chapter 4, Article 5 of the West Virginia State Code and includes investigation into the purchasing practices and procedures of the State, conflicts of interest, bribery of State officials, malfeasance, misfeasance or nonfeasance in office by any employee or officer of the State, and to conduct investigations to determine if any criminal or civil statutes have been violated at any level of State government. The Commission has conducted hundreds of investigations into fraud and public corruption in which the State of West Virginia was the victim. Commission Investigators work in conjunction with the United States Attorney's offices in West Virginia, the 55 County prosecuting attorneys, local, county and State law enforcement, as well as the FBI, IRS and other Federal law enforcement, regulatory and investigative agencies.

The Commission Staff is currently comprised of a Director, Deputy Director, six Investigators and an Administrative Assistant. The law enforcement and investigative experience of individual Investigators ranges from 25 to 43 years. At any one time the Commission may have a dozen or more active investigations.

The Commission was originally formed as a result of a Federal corruption investigation of Governor W. W. Barron and several members of his Administration conducted in the late 1960s by the Internal Revenue Service. The six-year investigation revealed a need for an independent investigative agency within State government empowered to investigate public corruption unimpeded by politics or other traditional barriers.

In September 1968, Governor Hulett Smith convened a special legislative session and then Senator William T. Brotherton proposed the creation of a special commission to investigate the purchasing practices of the State. The result was the creation of the Purchasing Practices and Procedures Commission (PPPC), which was in 1980 renamed the Commission on Special Investigations, or as it is more commonly known, CSI.

The Commission is comprised of ten members of the Legislature, with the President of the Senate and Speaker of the House of Delegates serving as its Co-Chairmen. The remaining eight members (four from the Senate and four from the House) represent both political parties. Meetings are conducted during interim sessions of the Legislature and are generally held in executive session. By statute, all of CSI's records are exempt from the Freedom of Information Act (FOIA).

Early newspaper accounts referred to the Commission's Investigators as "West Virginia's Untouchables" because the Commission was created specifically to be and has remained beyond the reach of the political influence of either the Executive or Legislative branches of government.

Today CSI is responsible for the investigation and prosecution of any crimes involving public corruption at any level of State government. Commission Investigators have investigated and successfully prosecuted cases involving embezzlement, larceny, forgery, bribery, extortion, falsifying accounts, obtaining money by false pretenses, and mail and wire fraud, among other criminal violations. CSI Investigators have been actively involved in prosecuting cases in both State and Federal court.

Investigations may involve "any level of State government," i.e., any level where there is an involvement or infusion of State money, resources or personnel. CSI has investigated not only State agencies, officers, elected officials and employees, but also county and municipal entities which receive or use State or Federal funds passed through the State. While some investigations are completed in short order, it is not unusual for CSI matters to remain open for weeks, months and, at times, years.

Many investigations begin with a call from a concerned citizen who has become aware of something "that just doesn't seem right" or which is obviously a violation of law. Investigators work closely with many people within and outside of State government and our reputation for professionalism is second to no other investigative agency, State or Federal.

CSI is an active participant in the ***Public Integrity Special Investigations Unit*** established by Michael B. Stuart, United States Attorney for the Southern District of West Virginia and a similar joint investigative unit created by former US Attorney William Ihlenfeld II in the Northern District.

Investigating Public Corruption Since 1968



1968-1919

**A Half Century of Service
and Counting!**

Commission Members

§4-5-1

The Commission shall be composed of the President of the Senate and four members of the Senate, to be appointed by the President of the Senate, no more than two of whom shall be from the same political party; and the Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than two of whom shall be appointed from the same political party: Provided, That in the event the membership of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The commission shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the commission by the commission chairs serve until their successors are appointed as provided herein.

These Legislators are responsible for overseeing the investigative activities of the Commission Staff, which are reviewed in executive session during Legislative interim meetings. A quorum, consisting of the majority of the total authorized membership, is required to open or close an investigation or refer a matter to the appropriate Legislative Committee, if the subject falls outside the Commission's purview.



West Virginia Legislature

Commission on Special Investigations

6/30/2019

Mitch Carmichael (R)
Senate President
Lt. Governor
Co-Chairman
Joined CSI 2016



Roger Hanshaw (R)
House Speaker
Co-Chairman
Joined CSI 2018
Rejoined CSI 2015



Charles S. Trump IV (R)
Senate Judiciary Chair
CSI Member 1993-2007
Rejoined CSI 2015



John Shott (R)
House Judiciary
Chair
Joined CSI 2015



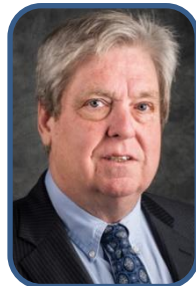
Corey Palumbo (D)
Senate Minority Whip
Joined CSI 2011



Tim Miley (D)
House
Minority Leader
Joined CSI 2013



Mike Woelfel (D)
Senator
Joined CSI 2015



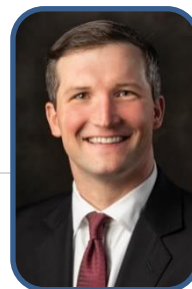
Joe Canestraro (D)
Delegate
Joined CSI 2019



Ryan Weld (R)
Senator
Joined CSI 2019



Moore Capito (R)
Delegate
Joined CSI 2019



Commission Staff

§4-5-2(b)(3)

The Commission is empowered to: *“Employ necessary legal, technical, investigative, clerical, stenographic, advisory and other personnel and, within the appropriation specified in §4-5-4 of this code, fix reasonable compensation of any persons and firms that are employed. The commission’s investigative staff may consist of a director, deputy director, senior investigators, and investigators as approved by the co-chairs: Provided, That the commission may authorize certain employees of the commission to administer oaths and take affidavits and deposition anywhere in the state.”*

The current investigative staff has previously distinguished themselves with successful law enforcement careers, ranging from first line to senior supervisors and senior administrators in both large municipal police departments, the State Police and Federal agencies.

Commission Staff designated as “Investigator” are issued special identification credentials including photo identification and Commission badges. Investigators are also authorized to carry firearms in the performance of their duties.

Staff Investigators are responsible for conducting comprehensive and detailed investigations on behalf of the West Virginia Legislature into the purchasing practices and procedures of the State and matters of public corruption. To that end, Investigators work with their counterparts in local, State and Federal law enforcement agencies as well as other State entities and local and Federal prosecutors.



Director

Charles R. Bedwell Joined CSI – 2003

36 years law enforcement experience

Professional Experience:

WV State Police

Major - Deputy Chief of Staff

**Chief of Criminal Identification Bureau &
Traffic Services**

Director - Planning & Research

Education:

**WV State University, Marshall University,
Northwestern University, WV State Police
Academy**



Deputy Director

James S. Powers Joined CSI – 2002

43 years law enforcement experience

Professional Experience:

WV State Police

Lieutenant Colonel - Chief of Staff

Chief of Administrative Services

Director – Procurement

BCI Grant Forfeiture Officer

Education:

**Radford University, Virginia Polytechnic
Institute, FLETC – Glynco, WV State Police
Academy**





Senior Investigator

Steven E. Staton Joined CSI – 1999

46 years law enforcement experience

Professional Experience:

**Beckley, WV Police Department
Lieutenant – Shift Commander**

Education:

**Marshall University, Concord University,
WV State Police Academy**

Investigator

Rick D. Eplin Joined CSI – 2015

33 years law enforcement experience

Professional Experience:

**Huntington, WV Police Department
Captain – O.I.C. Criminal Investigation
Division**

Education:

**WV State University, FBI National
Academy, WV State Police Academy**





Investigator

Michael G. Robinson Joined CSI – 2015

29 years law enforcement experience

Professional Experience:

WV State Police

**First Sergeant - BCI Regional Coordinator
Multi-jurisdictional Task Force Coordinator
Detachment Commander**

Education:

**Marshall University, Glenville State College,
WV State Police Academy**

Investigator

Jeff Shriner Joined CSI – 2017

29 years law enforcement experience

Professional Experience:

**Investigative Specialist – FBI
Master Corporal – New Castle County DE**

Education:

**St. Joseph's University
West Liberty University
New Castle County Police Academy**





Investigator

G. E. McCabe Jr. Joined CSI – 2018

29 years law enforcement experience

Professional Experience:

WV State Police

**Captain - Deputy Chief of Staff
Chief of Professional & Technical
Services**

**Director Communications/Information
Services**

**Director Planning & Research
Detachment Commander**

Education:

**Marshall University
Mount Vernon Nazarene College
WV State Police Academy**

Investigator

Ken McCord Joined CSI – 2019

25 years law enforcement experience

Professional Experience:

WV State Police

**Sergeant – Quincy, Clay & So. Chas
Detachments**

**Supervisor – Southern Crime Scene
Response Team**

Education:

**Milligan College
Marshall University
WV State Police Academy**





Investigator

Barry Parsons Joined CSI – 2019

28 years law enforcement experience

Professional Experience:

Special Agent – Drug Enforcement
Administration (DEA)

DEA Technical Operations Coordinator for
WV

Education:

Eastern Kentucky University
Kentucky Department of Criminal Justice
Training Center
FLETC - Glynco

Administrative Assistant

Sherry M. Lawson Joined CSI – 2018

Professional Experience

WV State Police Administrative Assistant

WV Supreme Court Certified Court Reporter



Legislature Amends Enabling Statute

During the 2019 Regular Session of the West Virginia Legislature, Senate Bill 272 was introduced on January 11th by Senators Mitch Carmichael (Senate President and Co–Chairman of the Commission on Special Investigations), Charles Trump, Mike Woelfel, Corey Palumbo and Eric Tarr. A companion House Bill, HB 2434 was introduced four days later. The House Bill was sponsored by Roger Hanshaw (Speaker of the House and Co-Chairman of the Commission), Mick Bates, Tim Miley, Eric Nelson and John Shott. This legislation was suggested by and endorsed by the Commission following several discussions during interim meetings.

Senate Bill 272 was intended to clarify and improve overall Commission operations by amending and reenacting §4-5-1, §4-5-2, §4-5-3, §4-5-4, and §4-5-5 of the Code of West Virginia, 1931, as amended; and adding two new sections, designated §4-5-7 and §4-5-8. More specifically the legislation continues the commission; clarifies the composition and chairmanship of the commission and terms of members; redefines what constitutes a quorum for voting procedures of the commission; specifies contents of the commission’s annual report; authorizes the employment of staff and the creation of certain staff positions; grants power to conduct interviews and request production from agencies of the state and its political subdivisions of books, records, documents, papers, and tangible things, but exempting items deemed confidential under state or federal law; authorizes the issuance of written requests for production in lieu of subpoenas; authorizes the director to issue subpoenas on the commission’s behalf; authorizes the commission to require an agency head to appear before the commission to answer for an agency’s failure to appear or produce requested or subpoenaed material or other failure to comply with a commission investigation; provides for executive session and confidentiality rights of witnesses; updates exemption of investigative materials from public disclosure; removes requirement for pre-approval of expenses of the commission by the Joint Committee on Government and Finance; requires that protected information provided to the commission be kept confidential, private, and secure in the same manner required of the government entity from which the information is received; provides procedures and requirements for the commission’s retention and disposal of records; establishes new offenses of impersonating a commission member or staff member and of threatening or otherwise obstructing a commission member or staff; establishes criminal penalties; allows the commission to award duty weapons to certain members on retirement; exempts the commission from the jurisdiction of the Agency for Surplus Property within the Purchasing Division of the Department of Administration with respect to the disposal of the commission’s primary and secondary duty weapons; authorizes the sale of

surplus weapons to active and retired members of the commission's investigative staff; and updates language and terms for clarity throughout.

§4-5-6 False Statements to Commission was not amended by this legislation.

SB 272 passed both houses of the Legislature and was signed into law by the Governor on February 28, 2019. The amended statute became effective May 23, 2019.

Deputy Director Receives Award

On May 28, 2019, William J. Powell, United States Attorney for the Northern District of West Virginia recognized CSI Deputy Director James Powers as one of four recipients of the 2019 Outstanding Investigative Effort Award. This recognition resulted from a 14-month, four agency investigation of current and former employees of the West Virginia Division of Highways (WVDOH) and multiple vendors. Along with CSI, investigators with the Federal Bureau of Investigations, the Criminal Investigation Division (CID) of Internal Revenue Service and the West Virginia State Police worked countless hours to secure guilty pleas to various charges from the pay-for-play scheme that ran from March 2008 – February 2014. More than \$700,000 in restitution and fines were ordered.

The investigation included numerous interviews, approximately 125 Grand Jury subpoenas, over 20 Grand Jury witnesses, multiple controlled telephone calls, five search warrants, and two **Mutual Legal Assistance Treaty (MLAT)** requests. The investigation produced approximately one million pages of documentation.

In addition to Deputy Director Powers, FBI Special Agent Hugh Mallet, IRS Special Agent Jeffrey Goode and WV State Police Sergeant J. W. Smith were honored at the awards ceremony.

This investigation is yet another example of CSI's ability to work jointly with federal and state agencies on long-term and often complex public corruption investigations and help bring them to a successful conclusion.



Recognition of Retired Senior Investigator



Senior Investigator Steven E. Staton

Employed June 16, 1999 – Retired July 20, 2018

Senior Investigator Steven Staton, retired July 20, 2018 with over 19 years service to the Commission. Steve joined the Commission on June 16, 1999 following a 25-year career in traditional law enforcement.

Steve retired from the Beckley West Virginia City Police Department, having served in the Department's Patrol Division, Narcotics Division, and Detective Bureau, moving back to the Narcotics Division as the supervisor before finishing his Beckley PD career as a Lieutenant assigned as a shift supervisor.

Of special note, during his Beckley PD Narcotics Division service, Steve was instrumental in the development and operation of a multi-jurisdictional drug task force that included the FBI, WV State Police, Raleigh County Sheriff's Department, and the Beckley Police Department. This task force became one of the most active and successful joint law enforcement counterdrug operations in Southern WV for several years and resulted in numerous high-profile felony indictments. During this time Steve was designated as a "Special Task Force Agent" with the Drug Enforcement Administration.

Upon his Beckley Police Department retirement Steve went on to serve the State of West Virginia as an Investigator II for the Bureau of Employment Programs. In this capacity, Steve investigated healthcare fraud and was responsible for the coordination of investigative efforts with local, state and federal law enforcement agencies.

Steve was recruited to CSI in 1999 based upon his stellar reputation as a criminal investigator. The Commission soon realized Steve's experience and contacts in southern West Virginia made him an invaluable asset and he was quickly designated as the "go to man" for all types of fraud investigation undertaken by the Commission in southern West Virginia. Due to his unique ability to identify and gain the trust of suspects, Steve soon became an asset to Commission efforts to ferret out corruption and fraud throughout the state.

Steve Staton's reputation as a CSI Investigator earned him numerous accolades and it was not unusual for other law enforcement agencies to request his assistance. Prosecutors, at both state and federal levels, routinely asked for Steve to be assigned to especially difficult or involved cases.

Steve, as one who always shunned the spotlight, insisted that his retirement not be "a big affair," so his departure was acknowledged by an informal office recognition of his service and retirement. CSI staff presented him with a plaque centered on his Senior Investigator badge, commending his dedicated service.

We wish Steve the best as he pursues retirement.

Commission Staff

New Investigators

Kenneth G. McCord – Employed February 3, 2019

Investigator McCord came to CSI upon his retirement at the rank of Sergeant from the West Virginia State Police. Ken served in a variety of capacities with the State Police including: Trooper, Detachment Commander, Supervisor of the Southern Crime Scene Response Team, Troop Public Relations Officer. Ken's final assignment was as a specialty investigator with the Bureau of Criminal Investigations, assigned to the Mardi Gras Casino and Greenbrier Casino Club. Additionally, Ken served on the WV Child Fatality Review Team for several years and completed numerous advanced training courses.

Ken is an adjunct instructor for the West Virginia State Police Academy, specializing in white collar crime and financial exploitation.

An Ohio native, Ken attended Milligan College in Tennessee and upon graduation, taught elementary school in Charleston, West Virginia before embarking on his law enforcement career.

Barry J. Parsons – Employed February 3, 2019

Investigator Parsons comes to CSI following his retirement from the Drug Enforcement Administration (DEA). Barry served as DEA Special Agent for 20½ years and was employed by the Federal Bureau of Prisons as a correctional officer for 5 ½ years and served as a police officer in London, Kentucky for an additional 2 ½ years.

Assignments as DEA Special Agent included Charleston, WV where he acted as the Technical Operations Coordinator and special assignment to Belize, to mentor the Belize (formerly British Honduras) Police Department Antinarcotics Unit.

While with Federal Prisons, Barry served on the Special Response Team, Squad Leader of the Hostage Rescue Squad and as defense tactics instructor. Additional duties included chemical weapons instructor and gang intelligence.



Acknowledgments

The Commission on Special Investigations receives information from a variety of sources, both public and private. CSI solicits and accepts information of potential wrongdoing from individual citizens, governmental employees and governmental agencies, many of whom do so at substantial personal risk. Absent this assistance, it would be difficult for the Commission to perform its duties.

While we recognize the contributions to CSI efforts made by various County Prosecuting Attorneys, United States Attorneys and Assistant United States Attorneys, Federal Special Agents, State Troopers, Sheriffs and their Deputies and local police agencies, there have been some who have provided extraordinary assistance to us over the past year that significantly aided in the successful investigation and prosecution of important matters. Due to the ongoing nature of some investigations, and the need to protect the confidentiality of some who have worked closely with CSI, we cannot acknowledge every individual by name; however, we would like to acknowledge the contributions of those listed on the following page.



Individual Acknowledgments

William J. Powell, US Attorney WVND

Michael B. Stuart, US Attorney WVSD

Jarod J. Douglas, Assistant US Attorney, WVND

Andrew R. Cogar, Assistant US Attorney WVND

Phillip H. Wright, Assistant US Attorney WVSD

R. Gregory McVey, Assistant US Attorney WVSD

Andrew J. Tessman, Assistant US Attorney WVSD

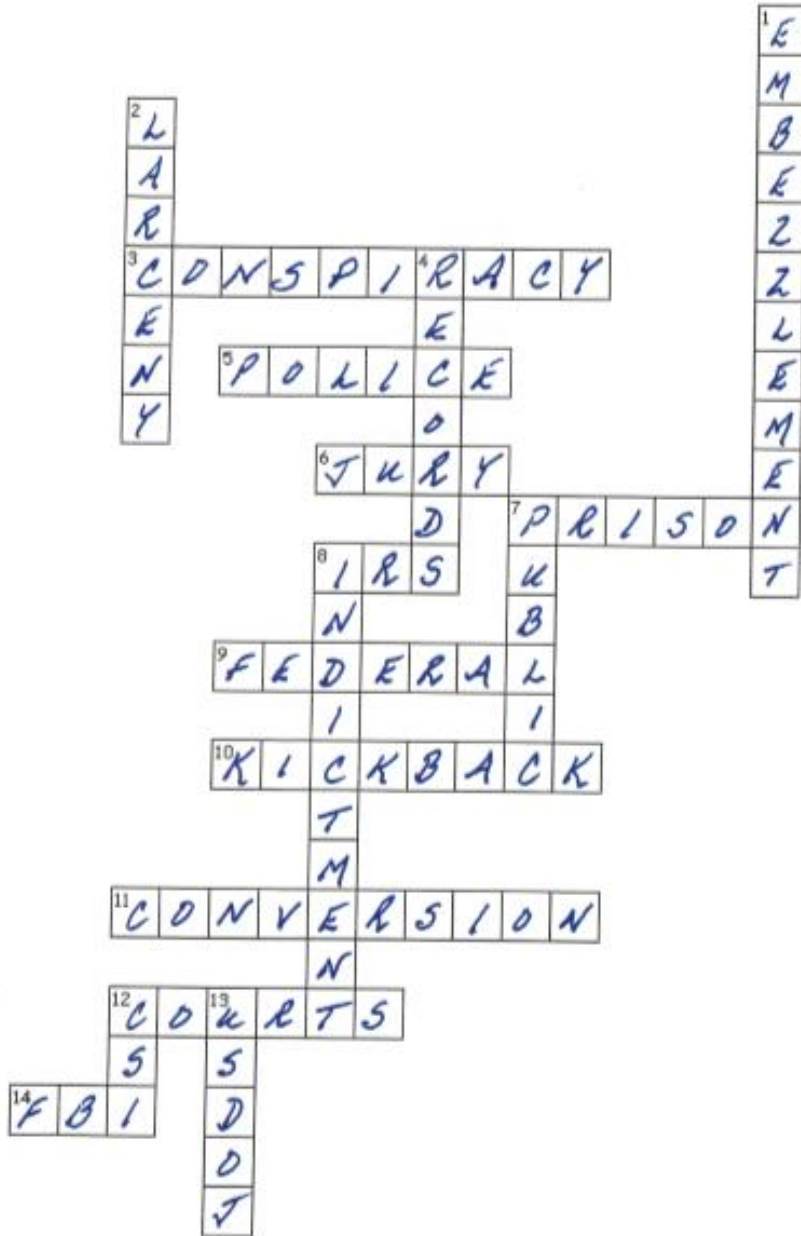
Ruth Sheff, Paralegal Specialist USDOJ

Robert W. Schulenberg, III, Assistant Prosecuting Attorney – Kanawha County

S/A Jim Lafferty, FBI – Charleston

S/A Jeff Goode, IRS CID – Charleston

Investigating Public Corruption A Joint Effort Completes the Puzzle



Activities of the Commission

July 1, 2018 – June 30, 2019

During this fiscal year, the Commission on Special Investigations opened 35 investigative files and closed 20. Additionally, Commission Investigators conducted numerous preliminary inquiries of suspicious activities or wrongdoings. Twenty-one of these inquiries were exceptionally closed after deterring no basis for an in-depth investigation was warranted or there was insufficient information to proceed. A few of the inquiries were resolved prior to a file being formally opened. Eight additional matters were identified for possible investigation and deferred for future action. Commission Staff processed five requests for special assistance that did not require an active inquiry or investigation. Other matters previously opened for investigation that had not been finalized remained as open/active files and investigation of those matters continued.

The Commission met in executive session a total of six times; once during each interim session of the Legislature. During these meetings, Commission Investigators made oral presentations to the Commission regarding alleged wrongdoing by agencies, governmental employees, and individuals and/or firms conducting business at any level of state government.

When an investigation results in criminal prosecution and/or restitution to the state, or when investigative leads are exhausted without establishing evidence of wrongdoing, the file may be closed. It is, however, not unusual for a CSI investigation to result in changes to an agency's policies or procedures or discipline of an offending employee, even though no criminal action is identified, or prosecution is not pursued. CSI investigations can also result in changes to state law as proposed by the Commission.

The following are representative of the investigative activities conducted by Commission staff during this fiscal year:

West Virginia Supreme Court – Fraudulent Activities

In part, as a result of media coverage during November and December of 2017 the Commission on Special Investigations was asked by both the Kanawha County Prosecuting Attorney's Office and the United States Attorney's Office for the Southern District of West Virginia to participate in an investigation of certain spending practices and related issues involving the Justices and staff of the West Virginia Supreme Court of Appeals. The issues initially raised for inquiry included: spending practices associated with extensive renovations of the Court's facilities, in particular, the Justices' chambers; the removal of furniture from the premises of the Court, and expensive custom framing of various items at the Court's expense which might or might not remain in the possession of the Court. Additionally, a formal complaint had been made against the Court's former administrator by Chief Justice Allen Loughry.

As the matter moved forward, it was determined Commission Investigators would join with the federal investigation which was underway combining the resources of the US Attorney's Office, the Federal Bureau of Investigation, the Internal Revenue Service – Criminal Investigation Division, and the Commission staff. The investigation consumed an immense number of man-hours and involved the gathering and analysis of extensive amounts of records, along with a multitude of witness interviews.

Concurrent with the criminal investigation, a vast amount of information was gathered and analyzed by the Legislature's Post Audit Division, which also shed significant light on issues related to the Court. Ultimately, there was substantial overlap between some audit issues and the criminal investigation. Additionally, the Judicial Investigation Commission was independently scrutinizing some of the same issues during this timeframe.

Independent of the federal grand jury, CSI undertook an extensive analysis of expenditures by the Court for food and beverages. In the most recent three-year period ending in the fall of 2017, there was a total expenditure of about \$47,000 for food and beverages consumed by the Justices, their Administrative Assistants, and a very limited number of other staff members on the third floor of the Court. Of this amount, about \$30,000 went for catered meals, \$10,000 for various types of snack foods; candy, nuts and soft drinks, and \$7,000 for coffee. These benefits were not extended to Court employees on the first and fourth floors of the Capitol, nor was it extended to Court employees in the Kanawha City complex. These findings were echoed by the efforts of the Post Audit Division.

Extensive review of the Court's records also confirmed relatively exorbitant expenditures of public funds to have various items framed for some Justices.

In addition, renovations to the Court's facilities, and to the Justices' chambers in particular, received extensive scrutiny.

In the end, no criminal charges resulted from these aspects of the investigation, at least in part, because the Court is exempt from the provisions of the purchasing statute as articulated by Chapter 5A, Article 3 of the West Virginia Code.

Ultimately, however, federal criminal charges were brought against Former Justices Menis Ketchum and Allen Loughry.

During the course of the investigation, the personal use of Court vehicles and Court fuel credit cards assigned to those vehicles were examined in great detail. Also scrutinized were travel expense reimbursements for all the Justices and some members of the Court staff. Former Justice Ketchum was determined to have commuted back and forth from his Huntington residence to his chambers at the State Capitol in Charleston in a Court vehicle and to have used a state issued fuel credit card to obtain fuel for that vehicle at the Court's expense for years, finally discontinuing the practice in July 2016. In August 2014 Former Justice Ketchum traveled from his Huntington home to a private golf club in western Virginia, driving a state owned vehicle and charged the fuel costs of this trip to a state issued fuel credit card. In addition to reimbursing the Court for golf trips, Former Justice Ketchum reimbursed the Court for parts of six different expense accounts wherein he charged the Court for mileage on his personal car while on official business, although he was actually driving a state car. On one of these occasions he turned in an expense account with over \$500 in mileage on it when, in fact, he was driving a state car.

Former Justice Ketchum also reimbursed the Court for the cost associated with a grandfather clock which formerly was part of the Court's furnishings.

On August 23, 2018, Former Justice Ketchum entered a guilty plea in Federal District Court in Charleston to one count of Wire Fraud relating to misuse of a state fuel card. On March 6, 2016, he was sentenced to 36 months of probation and fined \$20,000.00.

Former Justice Allen Loughry was indicted on multiple counts and stood trial on 22 individual charges, beginning October 2, 2018 and ending on October 12, 2018. These charges related to the following:

- Willfully making false statements to a federal agent
- Fraud in connection with using government vehicles and government fuel cards for personal use under the false pretense he was using the vehicles for official

business. These included trips to his parents' home in Parsons, West Virginia, and trips to the Greenbrier Resort for book signing events for his own book.

- Fraud in connection with his personal use of a valuable historic "Cass Gilbert" desk that belonged to the Supreme Court by taking it to his residence for use in a home office.
- Defrauding American University in Washington, D.C. by claiming mileage expenses for a trip on which he used a Supreme Court vehicle.
- Defrauding the Pound Civil Justice Institute for mileage expenses related to his attendance at a forum for state appellate judges.

Jury selection in the trial of Former Justice Allen Loughry began on October 2, 2018, and the trial proper concluded on October 12, 2018. Ultimately, Loughry was convicted on 10 of the 22 charges for which he stood trial:

7 Counts of Wire Fraud

(Relating to use of state vehicles and fuel cards)

2 Counts of Making False Statements to a Federal Agent.

(Relating to use of state vehicles and fuel cards and the Cass Gilbert desk)

1 Count of Mail Fraud

(Relating to the Pound Institute)

On February 13, 2019, Former Justice Loughry was sentenced to serve 24 months in federal prison, 36 months of supervised release, and to pay a fine of \$10,000.00 and \$1,273.53 in restitution.

Appalachian Children's Chorus – Embezzlement

This case was brought to CSI by the Commissioner of the WV Division of Culture and History, after he was contacted by the founder of the Appalachian Children's Chorus. The Appalachian Children's Chorus (ACC) is largely funded through State grants and private donations. CSI was informed the organization's former Executive Director, J. Holly Portillo, was suspected of using the chorus's credit card to make personal purchases. Items including pet supplies, fuel for a personal vehicle, and hotel rooms appeared on credit card billings.

CSI Investigator Jeff Shriner was assigned as the lead investigator on the case. He began conducting interviews and collecting and reviewing billing and financial

records. Investigators worked closely with the Kanawha County Assistant Prosecuting Attorney Robert W. Schulenberg III in the ensuing investigation.

The investigation established Portillo used the ACC card to pay \$2,500 for a photo shoot with her dogs, as well as pay an additional \$28,000 for veterinary services and other purchases. Upon a detailed examination of the financial records, it was determined she also used for her personal benefit a second credit card assigned to the founder of the organization. She used this second card to pay \$2,210 rent for a week stay at a beach house, as well as, other purchases. She also wrote several checks to herself from the organization's account. One of the checks was an unauthorized \$3,000 bonus to herself soon after she was appointed to the position of Executive Director. She also altered several credit card statements in an effort to hide her personal purchases before she turned them in to the organization's accountants. The investigation concluded Portillo embezzled a total of \$101,732.70 from the ACC.

Facing a 30-count indictment, Portillo pled guilty in June 2018 to 4 counts of felony embezzlement in Kanawha County Circuit Court. On July 30, 2018, Portillo was sentenced to 1 to 10 years in the state penitentiary.

In a separate civil action, the court granted judgement in favor of the State of West Virginia and Appalachian Children's Chorus, Inc. against Portillo in the amount of \$101,732.70, plus interest and court costs.

Logan County Board of Education - Theft of Federal Program Funds

This matter was jointly investigated by the Commission on Special Investigations and the FBI, under the direction of the United States Attorney's Office, for the Southern District of West Virginia.

The original complaint made to CSI was that then Logan County Board of Education School Superintendent Phyllis Doty, had used school board funds for personal use. The initial CSI Investigator, Robert Lanham, worked with the FBI to identify over \$6,000 of improper purchases that included items used in Doty's son's wedding in 2015. Items purchased include decorative urns and columns, breadbaskets, easels, drink dispensers, and napkins. The investigation also identified approximately \$12,000 in suspect purchases made between 2011 and 2015 of Apple iPads and iPods which Doty may have either given to family members as gifts or sold on eBay for personal gain.

When Investigator Lanham left CSI, Investigator Jeff Shriner was assigned to the investigation and continued to identify and interview witnesses and track the suspect purchases made by Doty.

In February 2018, a federal grand jury indicted Doty on one count of Mail Fraud, two counts of Wire Fraud and two counts of Theft from a Program Receiving Federal Funds.

During the week of August 28, 2018, the trial of Doty took place at the Federal Courthouse in Charleston. As a result, Doty was convicted of four counts of Wire Fraud, two counts of Theft From a Program Receiving Federal Funds, one count of Mail Fraud and one count of Aggravated Identity Theft.

On March 1, 2019, Doty was sentenced to 42 months in federal prison followed by three years supervised probation. She was also ordered to pay \$25,083.10 in restitution.

FEMA Fraud-Fraudulent Claim

This case was brought to CSI as a result of a confidential informant, who provided information that a fraudulent FEMA claim was made by the former Director of the Clay County Development Corporation, Pamela Taylor. This allegation was that Taylor filed a claim on a camp along the Elk River that sustained damage during the flood of 2016, resulting in her receiving a claim payment of over \$18,000.00 in federal money. The investigation determined that, at the time of the flood, the camp was not her primary residence. Taylor later admitted to investigators it was not her primary residence and she filed a false claim. Investigators had also interviewed several neighbors who confirmed that neither Taylor, nor anyone else, was living at the camp at the time of the flood. A review of her FEMA paperwork that Taylor submitted, contained several false statements and inconsistencies.

On February 13, 2019, Taylor pled guilty in United States District Court, Charleston West Virginia to one count of fraud in Connection with a Major Disaster or Emergency Benefits.

On May 30, 2019 Taylor was sentenced to ten months federal incarceration followed by two months home confinement and three years supervised probation. She was also ordered to pay \$18,149.04 in restitution, as well, as a \$10,000.00 fine.

This case was a joint investigation with CSI, the United States Department of Homeland Security - Office of the Inspector General, and the United States Attorney's Office for the Southern District of West Virginia.

Lewis and Gilmer County Magistrates-Bribery of a Public Official

This case came to CSI at the request of the United States Attorney's Office for the Northern District of West Virginia. The complaint alleged that a Magistrate in Gilmer County, Alton Skinner, II, and his family opened a bail bonding company, known as E-Z-Out Bonding, which is only authorized to write bonds in Lewis County. The investigation revealed that a Magistrate in Lewis County, Roger Clem, Jr., was directing arrestees specifically to E-Z-Out without providing them with a list of bonding companies, as required by law. CSI Investigators interviewed numerous individuals who had been arraigned before Clem, who confirmed he would direct them to E-Z Out Bail Bonding, confirming the allegations.

On May 7, 2019, Lewis County Magistrate Roger Clem, Jr., was indicted by a federal grand jury for one count of Conspiracy to Commit Mail and Wire Fraud, two counts of Wire Fraud, two counts of Mail Fraud and one count of Obstruction of Justice.

Gilmer County Magistrate Alton Skinner, II, was indicted the same day for one count of Conspiracy to Commit Mail and Wire Fraud, two counts of Wire Fraud, two counts of Mail Fraud, one count of Obstruction of Justice and one count of False Statement to a Federal Agent.

Appendix
Powers & Duties
of the
Commission

THE LEGISLATURE

ARTICLE 5.

COMMISSION ON SPECIAL INVESTIGATIONS

§4-5-1. Commission on Special Investigations continued; composition; appointment and terms of members.

The Commission on Special Investigations is continued. The commission shall continue to be composed of the President of the Senate and four members of the Senate, to be appointed by the President of the Senate, no more than two of whom shall be from the same political party; and the Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than two of whom shall be appointed from the same political party: Provided, That in the event the membership of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The commission shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the commission by the commission chairs serve until their successors are appointed as provided in this section.

§4-5-2. Powers and duties generally.

(a) The Commission on Special Investigations may, by majority vote:

- (1) Conduct a comprehensive and detailed investigation into the purchasing practices and procedures of the state;
 - (2) Determine if there is reason to believe that the laws or public policy of the state in connection with purchasing practices and procedures have been violated or are inadequate;
 - (3) Determine if any criminal or civil statutes relating to the purchasing practices and procedures in this state are necessary to protect and control the expenditures of money by the state;
 - (4) Investigate or examine any matter involving conflicts of interest, bribery of state officials, malfeasance, misfeasance, or nonfeasance in office by any employee or officer of the state;
 - (5) Conduct comprehensive and detailed investigations to determine if any criminal or civil statutes have been violated at any level of state government;
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(6) Determine whether to recommend criminal prosecution or civil action for any violation, either criminal or civil, at any level of state government and, if it is determined that action is necessary, to make appropriate recommendation to the Attorney General, prosecuting attorney, or other authority empowered to act on the recommendation; and

(7) Make written reports deemed advisable by the commission to the members of the Legislature between its sessions. On the first day of each regular session of the Legislature, the commission shall make an annual report on its activities to the Legislature containing recommendations for any proposed legislation which it considers necessary to carry the recommendations into effect.

(b) The commission may also:

(1) Sit during any recess of the Senate and House of Delegates;

(2) Recommend to the judge of any circuit court that a grand jury be convened pursuant to the provisions of §52-2-14 of this code to consider any matter which the commission considers in the public interest and, in support thereof, make available to the court and the grand jury the contents of any reports, files, transcripts of hearings, or other evidence pertinent to the matter;

(3) Employ necessary legal, technical, investigative, clerical, stenographic, advisory, and other personnel and, within the appropriation specified in §4-5-4 of this code, fix reasonable compensation of any persons and firms that are employed. The commission's investigative staff may consist of a director, deputy director, senior investigators, and investigators as approved by the cochaIRS: Provided, That the commission may authorize certain employees of the commission to administer oaths and take affidavits and depositions anywhere in the state;

(4) Consult and confer with all public and private persons and organizations, any entity of federal or state government or of any political subdivision of the state, that have information and data pertinent to an investigation; and all state agencies and state political subdivisions shall cooperate to the fullest extent with the commission;

(5) Call upon any entity of state government or of any political subdivision of the state for any services, information, and assistance the commission considers advisable;

(6) Refer appropriate matters to the office of the United States Attorney, or other appropriate state or federal law-enforcement entity, and cooperate with such office in the disposition of matters so referred; and

(7) Interview witnesses and require production from any entity of state government, or of any political subdivision of the state, of books, records, documents, papers, computers, laptops, computer hard drives, electronic records including, but not limited to, emails, electronic files, electronic documents and metadata, or any other thing, in any form in which it may exist, as the commission believes should be examined to make a complete investigation, except where the records, documents, data, or items are protected from

disclosure by state or federal law or privilege recognized by state or federal courts: Provided, That a request for production pursuant to this subdivision may be in the form of a written letter from the director of the commission in lieu of a subpoena.

(c) Notwithstanding any provision of this code to the contrary, specific personnel may be designated by the commission to carry a firearm in the course of performing his or her official duties: Provided, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated personnel shall first successfully complete a firearms training and certification program which is equivalent to that which is required of members of the State Police. A person so designated shall also possess a license to carry a concealed deadly weapon in the manner prescribed in §61-7-1 et seq. of this code.

§4-5-3. Executive sessions; hearings; subpoena power; enforcement provisions.

The commission may conduct proceedings in a confidential executive session for the purpose of establishing business, establishing policy, reviewing investigations, and interrogating a witness or witnesses: Provided, That if a witness desires a public or open hearing the witness may demand an open hearing and shall not be heard otherwise: Provided, however, That if a witness desires a hearing in an executive session, the witness may so request and shall not be heard otherwise. However, members of the staff of the commission may be permitted to attend executive sessions.

All witnesses appearing before the commission shall testify under oath or affirmation, and any member of the commission or its staff may administer oaths or affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books, records, documents, or papers, or any other tangible thing except where the records, documents, data, or items are protected from disclosure by state or federal law or privilege recognized by state or federal courts, the commission may issue subpoenas, signed by one of the cochairs: Provided, That the commission may specifically authorize or delegate the power to its director to sign subpoenas on its behalf. The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the commission shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance: Provided, That prior to seeking circuit court relief, the commission may, in its discretion, first demand the head of the public agency in which an employee has failed to appear or which has failed to produce requested or subpoenaed material to

appear before the commission and address the basis for the failure to comply and whether compliance will be forthcoming.

§4-5-4. Compensation and expenses of members; other expenses; how paid.

The members of the commission shall receive travel, interim, and out-of-state expenses, as authorized in §4-2A-6 and §4-2A-8 of this code. Such expenses and all other expenses, including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory, and other personnel, shall be paid from the appropriation for Joint Expenses.

§4-5-5. Investigations exempt from public disclosure requirements.

(a) The investigations conducted by the commission and the materials, in any medium, including hard copy and electronic, placed in the custody of the commission as a result of any such investigation are exempt from public disclosure under the provisions of chapter 29B of this code.

(b) Notwithstanding any other provision of this code to the contrary, the commission may dispose of printed materials placed in its files upon a vote of the commission: Provided, That the commission shall save copies of materials filed on or after January 1, 2010, in electronic form prior to their disposal.

(c) When the commission receives information, in any form, from any office, agency, department, or branch of state or local government that is bound by state or federal law to maintain the confidentiality, privacy, or security of the information, that governmental body shall identify to the commission what information and materials are so protected and identify the law or laws governing the confidentiality, privacy, or security of the information. The commission shall protect the confidentiality, privacy, or security of the protected information in like manner and to the same level as is required of the governmental body providing the information to the commission. When the commission has completed an investigation and no longer has a need to maintain the confidential or protected information or materials, the commission shall notify the entity from whom the information was received and, unless requested to return the information or materials, shall destroy the same in a secure fashion and notify the entity from whom the information was received of this destruction.

§4-5-6. False statements to commission.

(a) A person is guilty of making a false statement to the Commission on Special Investigations when:

(1) Such person, with the intent to impede the commission or to impede an investigator of the commission acting in the lawful exercise of his or her official duties, knowingly and willfully makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry;

(2) Such statement, representation, writing or document is made or given to the commission or an investigator of the commission acting in the lawful exercise of his or her official duties; and

(3) The misrepresentation is material.

(b) The provisions of subsection (a) of this section are not applicable to a person in the relation of husband and wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, of an individual who is the subject of an investigation by the commission.

(c) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both, in the discretion of the court.

§4-5-7. Impersonation or obstruction of commission member or staff.

(a) A person is guilty of impersonating a member or employee of the Commission on Special Investigations when he or she does one of the following:

(1) Falsely represents himself or herself to be a member or employee of the commission;

(2) Falsely represents himself or herself to be acting under the order or direction, or to have the authority, of the commission or its staff; or

(3) Falsely presents a badge, credentials, other insignia or likeness thereof, used by the commission for identification as a member of the commission or its staff.

(b) Any person who, by threats, menaces, or acts, or who forcibly or illegally hinders or obstructs or attempts to hinder or obstruct a Commission on Special Investigations member or employee acting in his or her official capacity, is guilty of obstruction: Provided, That failure to produce information or records at the request of a member or employee of the commission is not obstruction when such disclosure is prohibited by state or federal law.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500, or confined in jail for not more than one year, or both fined and confined.

§4-5-8. Award of duty weapon upon retirement; disposal of other weapons used by staff.

(a) Upon the retirement of a member of the commission's investigative staff, the cochairs of the commission shall award to the retiring employee a duty weapon used by the employee when that employee retires honorably after having served:

(1) At least 20 years of actual service on the commission's investigative staff;

(2) At least 20 years in law enforcement and an additional 10 years of service on the commission's investigative staff; or

(3) Any period of service on the commission's investigative staff and retires due to total physical disability resulting from his or her service to the commission.

(b) The award of the duty weapon shall be without charge to the employee or other condition: Provided, That the cochairs shall not award a duty weapon to any retiring employee whom the cochairs find to be mentally incapacitated or to be a danger to any person or to the community.

(c) The commission has the sole authority to determine the manner of disposition of duty weapons of members of the commission's investigative staff when replaced due to age or routine wear. The commission may offer these surplus weapons for sale at fair market value to any active or retired member of the commission's investigative staff who has been designated to carry a firearm in the course of duties with the commission, with the proceeds of any sales to be used to offset the cost of new weapons. Surplus duty weapons may also be included as trade-ins toward the purchase of new weapons.

