



## **THE CONSTANTINE INSTITUTE, INC.**

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### **JOINT LEGISLATIVE FISCAL COMMITTEE HEARING EXECUTIVE BUDGET PUBLIC PROTECTION 6 FEBRUARY 2013 STATEMENT OF TERRY O'NEILL, DIRECTOR THE CONSTANTINE INSTITUTE, INC.**

#### **INTRODUCTION**

The Constantine Institute, Inc. has been organized to promote the highest constitutional, legal, ethical and professional standards in law enforcement, to encourage innovation in public safety strategy, tactics, training and education and to foster a seamless continuum of cooperation, support and mutual respect among public safety agencies and organizations.

#### **THE CONSTANTINE INSTITUTE**

It has been my ambition for twenty years now to make New York a center for research and development on cutting-edge ideas in public safety, tackling problems ranging from youth gangs and street crime to transnational organized crime and terrorism. These difficult times challenge us to be resourceful in finding the means to create and sustain new programs and

initiatives. We must be creative in looking at resources we possess of which we have not realized their maximum value. We do, in fact possess a unique and untapped resource of great value in the record of the New York State Police and our eponymous (i.e., the person our organization is named for) patron Tom Constantine himself.

In 1957, the NYSP made history when it exposed the existence of organized crime in an incident known as the Appalachian organized crime meeting. That incident sparked a tremendous engagement on the part of the federal government and law enforcement agencies all over the nation to confront and combat what has today grown into a global network of criminal enterprises. (See: *McMafia: A Journey through the Global Criminal Underworld*, Misha Glenny, Vintage Books, 2009) The United Nations estimates that criminal organizations worldwide profit over \$2 trillion a year, twice what all the nations on earth spend on their annual military budgets.

In 1991, under the leadership of then State Police Superintendent Tom Constantine, the operations of Colombia's Cali Cartel were exposed in New York after a six-year investigation that began with the 1985 discovery of a cocaine processing lab in rural Montgomery County. Four years later, as head of the Drug Enforcement Administration, Constantine presided over the dismantling of the cartel and the capture, extradition, sentencing and imprisonment of its leaders and the forfeiture of some \$8 billion of their criminal assets. The Cali Cartel is acknowledged to have been the largest and most powerful criminal conspiracy in history. (See: *Drug Lords: The Rise and Fall of the Cali Cartel, the World's Richest Crime Syndicate*, Ron Chepesiuk, MILO Books Ltd., 2003) An alumnus of our New York State Police took it down. The Troopers who exposed the old Mafia in 1957 dragged the New Mafia out into the light of day in 1991.

Between 2000 and 2003, Constantine, serving as Oversight Commissioner for reform of the Police Service of Northern Ireland, played a major role in ending more than three decades of terrorist violence in the British Isles by giving the people of the province a police service that is committed to the highest legal and ethical principals, excellence in professionalism and the philosophy of community policing. This is a remarkable achievement and it stands as a model of what needs to be achieved in many areas of the globe that do not have so trusted an institution to maintain public order.

This unique and internationally acknowledged legacy of pioneering achievement is an asset of considerable but unrealized value for purposes of developing a privately-funded and ultimately self-sustaining endowment to support research, development, training and education in the struggle against transnational organized crime and terrorism.

The Constantine Institute will marshal the intellectual resources of our great public university system and serve as a focal point for research and deliberation on the control of transnational organized crime and terrorism. Modeled on the prestigious Nathanson Centre for Transnational Human Rights, Crime and Security established in 1997 at Osgoode Hall Law School at York University in Toronto (<http://nathanson.osgoode.yorku.ca/>), the institute will sponsor a diverse research program that will reflect a balance among the issues relating to legal, operational, social, political, and economic aspects of responding to these threats. It will organize conferences and symposia that will bring together the best minds among academics, law enforcement professionals, the military services, the intelligence

community, lawmakers, the diplomatic corps and the business and financial sectors to develop strategies, tactics, relationships and legal and diplomatic frameworks for more effective international cooperation.

Since its inception in 1987, the Lt. Col. Henry F. Williams Homicide Investigation Seminar hosted by the New York State Police has brought together thousands of what have become known as Williams Associates, a powerful network of professional colleagues from all over America and quite a number of foreign nations. We envision an even more capable global network of Constantine Fellows composed of alumni of our future series of annual conferences on transnational organized crime and global terrorism.

## COMMUNITY POLICING

The concept of community policing has been widely known for nearly three decades. It is based on a police agency's building and working in partnership with community stakeholders to identify and solve problems that degrade quality of life and create an environment in which crime thrives. It has never been systematically promoted by the state of New York. Governor Cuomo's budget proposal offers nothing to suggest that he will change that.

The epidemic of drug-fueled violence that took hold in the 1980s resulted in the lion's share of public safety resources being invested in prison capacity during the administration of Governor Mario M. Cuomo. The Pataki years saw the emergence of Operation IMPACT, the state's primary local assistance program for law enforcement derived from the widely influential, statistics-driven, technology-based policing made popular under the administration of New York City Mayor Rudolph Giuliani under the name CompStat in the mid-1990s.

The popularity of Giuliani-style enforcement nationwide has effectively driven police agencies apart from the communities they serve and stymied the growth of the community policing movement. More recently, the "controversial :stop and frisk" practice that has been the hallmark of NYPD Commissioner Ray Kelly's long tenure has been an irritant in police/community relations. It has also, as research first published in 2010 by Dr. Eli Silverman Professor Emeritus of John Jay College and Dr. John Eterno of Molloy College has indicated, resulted in downgrading of felonies and discouraging victims from filing complaints by commanders who are under relentless pressure to report steadily declining rates of crime. I would commend to your attention a book these scholars brought out just last year greatly expanding upon their research. (See: *The Crime Numbers Game: Management by Manipulation, Advances in Police Theory and Practice*, Eli Silverman and John Eterno, CRC Press, 2012.)

Leading figures in contemporary policing have been saying loudly and clearly that police/community partnership has become severely attenuated. Baltimore Police Commissioner Frederick Bealafeld, III has observed that we have turned police cars into rolling high-tech offices. Now, officers won't get out of the "office" and interact with the public. Bernard Melekian, Director of the US Justice Department's COPS program has noted that while the numbers show that cities have grown safer, opinion polls confirm that Americans still fear crime.

In Albany, recent years have seen an extraordinary community discussion on the direction we want our police department to take. This was catalyzed by a number of tragic homicides involving victims and perpetrators of a very young age. These kids are not statistics. In a small city like ours, they have names. The kids in our neighborhoods and schools know them. For nearly four years, however, we had a chief of police who was addicted to the flashy technology we got through Operation IMPACT, created a "strike force" and responded to expressions of public dissatisfaction with the department's service and performance by citing statistics from DCJS indicating a decline in reported crime.

In 2010, Albany went through a very public process of searching for and selecting a new police chief. The people had the opportunity to tell the search committee empanelled by the mayor what kind of chief they wanted. At the same time, the interim team managing the Albany Police Department worked closely with the Common Council to develop a framework for designing and implementing a community policing plan. That plan is now in place. It has as its most visible component the establishment of Neighborhood Engagement Units that have divided the city into eighteen police beats with permanently assigned officers who have a community policing mandate. Fully ten percent of the department's manpower is committed full-time to this program. Officers in these units are in constant communication with patrol and investigative units making theirs a most valuable contribution to our innovative practice of Intelligence-led Policing.

I have the honor of having served over the past two years on the Buffalo Police Department Reorganization Commission which has a mandate to review the organization and geographic deployment of the department and to develop a plan for the implementation of community policing. A major impetus for the creation of this panel was the notorious City Grill Massacre that took place outside a popular downtown nightclub in August 2010. Eight people were shot, four of them fatally. Though there were over one hundred witnesses to this shocking crime, no one would cooperate with the department's investigation. Obviously, in the city of Buffalo relations between the police and the community had reached a very attenuated state. The Common Council subsequently adopted a resolution creating the commission. The management of the Buffalo PD asserts that it has community policing. I disagree. Buffalo is divided into five large police districts. Two "community police officers" are assigned to each and I've been told that their expertise on community policing will affect the department through some process of osmosis. This is nonsense. Buffalo has almost eight hundred sworn officers. Only ten are assigned to this program.

Unfortunately, while our commission had a panel of dedicated and capable volunteers to accomplish its task, it had no meaningful resources or administrative support. As the time drew near for producing the commission's mandated report, I wrote to DCJS Executive Deputy Commissioner Michael Green requesting that his agency provide that support under a long-extant statutory program ( Executive Law §837(5)) that provides advice and technical support for county and municipal police agencies under the rubric "management studies." I was subsequently informed by DCJS that this program can only be used at the specific request of the chief executive of a police agency. Unlike what happened in Albany and in several other instances I've been involved in that directly and successfully addressed a poor state of police/community relations through a concerted dedication to community input, the management of the Buffalo PD offered no meaningful cooperation with the commission.

We were not able to hold the kind of public hearings and community forums that worked so well in Albany. Commissioner Daniel Derenda believes that the fact that he has assigned – out of a force of some eight hundred sworn police officers – two “community police officers” to each of five very large and populous police districts in the city constitutes the delivery of neighborhood policing. That is utter nonsense. In Albany, nearly 10% of the Albany Police Department’s workforce is assigned full-time to provide community policing in eighteen neighborhood beats.

Clearly, Executive Law §837(5)) needs to be amended to give DCJS a mandate to respond to requests from municipal authorities other than the police department for assistance in reviewing police management issues.

What we need to do in this year’s budget is to take a good hard look at the local assistance we send to local law enforcement. Operation IMPACT has emphasized subsidized police overtime and acquisitions of pricey technology. IMPACT zones are highly localized. We should be providing leadership from the state level that encourages local law enforcement to move in the direction of community policing and partnership with neighborhood stakeholders. Communities with a healthy sense of trust and partnership with their law enforcement agencies are attractive to home-buyers, business investment and tourism. There should be a strong state program to encourage it as a essential component of our economic development efforts in all our distressed communities.

#### THE NEIGHBORHOOD PRESERVATION CRIME PREVENTION ACT

There is a moribund statutory framework in New York to promote a type of community-based problem-solving that focuses on neighborhood preservation and renewal. It is the Neighborhood Preservation Crime Prevention Act (NPCPA) (Chapter 55, Laws of 1983). It was intended to promote the creation of an infrastructure of community-based nonprofits that would partner with local police and other municipal agencies to preserve and renew neighborhoods and thereby reduce crime. DCJS was charged with administering the NPCPA and tasked with awarding small grants and providing technical assistance to the nonprofits encouraged by the program.

This forward-looking legislation, which Albany County District Attorney David Soares has called “one of the most brilliant pieces of legislation ever drafted, empowering neighborhoods and empowering people,” was never implemented. In fact, early in the Mario Cuomo administration, DCJS’ entire community crime prevention program was abruptly terminated. But neighborhood deterioration, specifically the abandoned building problem, continues to be a major criminogenic problem in all of our in all of our cities. We should, if not activate the NPCPA, at least come up with a program that fully integrates neighborhood preservation into our overall crime-fighting strategy.

#### PRISON INMATE RE-ENTRY

Between 1983 and 1994, the population of the state prison system exploded from 17,000 to 71,000 at its peak. Today, the Department of Correctional Services releases almost as many

individuals in a year as were in prison in 1983. Very slowly has our system moved to put in place the network of community resources that are needed to ensure that these people make a successful transition back to the community. Since former President George Bush proposed and Congress passed the Second Chance Act, there has been positive development in this direction. In New York, DCJS has administered funding to support prisoner re-entry task forces in a number of the state's counties. President Obama has empanelled a Cabinet-level re-entry task force to co-ordinate programs of a range of federal agencies in support of state and local re-entry efforts. Congress is apparently authorizing a continuing if reduced commitment of federal funding for these programs.

Several years ago, I worked with Albany County District Attorney David Soares on an effort to integrate an inmate re-entry program into the county's total public safety strategy. In Albany County, there are some 600 persons under parole supervision at any given time. The problem of caseload overburdening of parole officers leading to lax supervision of parolees is well known. The rate of recidivism of ex-convicts can rise to two-thirds in many places. These facts cannot be responsibly ignored by any subdivision's public safety authorities.

In the course of developing a proposal for Mr. Soares, I learned that there are many organizations in the community that collectively offer a full range of services that transitioning inmates need. It has become increasingly accepted that generic transition programs are not the most effective. Each returning inmate has different needs. Each is most effectively served by a program individually tailored to meet those needs. It is in our interest to have available the widest array of options out of which to fashion individual reentry programs. To date, the established providers have not been coordinated, they have competed against one another for resources and clients and some large providers have monopolized the field. The county re-entry task forces have begun the process of cataloging and coordinating services. But we think we could do something more.

That something is represented by a program in Albany called Lydia's House, Inc. Several years ago, Tamika Williams, an Albany woman who had done time in state prison, incorporated a nonprofit to own a house offering temporary housing and assistance in accessing transition services to up to six women returning to the community from prison. A small, intimate and most importantly, community-based program. We strongly support this kind of program. For decades now, our distressed and mostly minority neighborhoods have produced most of our prison population. These neighborhoods, which, outside of New York City, are very often Operation IMPACT zones, are where most individuals under parole supervision cluster. They are also the neighborhoods where lie much of the abandoned housing stock in our cities. Lydia's House is an example of neighbors helping neighbors. In this instance, ex-offenders are being housed and served, a building in an IMPACT zone is being used in a way that reduces the risk of recidivism and the people of the neighborhood are being empowered. And when combined with community policing and a renewed investment in neighborhood preservation, perhaps by providing job training in the building trades for returning inmates, a win-win-win situation.

## RESTORATIVE JUSTICE THE SPINAL CORD INJURY RESEARCH PROGRAM

Just over two years ago the shooting in Tucson, Arizona that took the lives of six people and left U.S. Representative Gabrielle Giffords with a gunshot wound to the head dominated the headlines. An injury such as Representative Giffords sustained is very serious. No one sustains an injury like that without neurological consequences. And so, she has resigned from the Congress. This tragedy underscores the fact that it is critical that medical research toward better treatments for such brain and spinal cord injuries goes forward. New York has, in fact, invested more than \$70 million in such research under the Spinal Cord Injury Research Program (SCIRP) over the past decade.

SCIRP was created in 1998 by Paul Richter of Albany, a former State Trooper whose career was ended when he was shot and paralyzed near Lake Placid on September 30, 1973. With the support of many retired law enforcement officers and veterans' organizations, we were able to accomplish the extraordinary legislative feat of getting the SCIRP bill introduced, passed and enacted in the space of four months as Chapter 338 of the Laws of 1998.

The Act imposes a small surcharge on Vehicle & Traffic Law fines that goes into a fund from which grants are made to medical research facilities in our state. In effect, the program puts the state's entire force of law enforcement officers to work, not only making our roads and highways safer and free of drunk drivers, but generating up to \$8.5 million annually that goes directly into research leading to treatment and cure of spinal cord injury (SCI) paralysis, traumatic brain injury (TBI) and many other neurological conditions. As traffic accidents are the leading cause of SCI and TBI, we consider it the most extraordinary example of restorative justice we've yet seen. Moreover, TBI is at epidemic levels among our military personnel because of the enemy's weapon of choice in our current overseas conflicts, the IED. Our commitment to neurological research has brought aid, comfort and hope to tens of thousands of military families.

Over the past two budget cycles, SCIRP revenue has been diverted to other general government purposes. We hope that the Legislature will recognize that this program invests in an industry that holds great promise for New York's future prosperity and great hope for our citizens who live with neurological impairments of various causes.

## MENTOR INTERNATIONAL

The fiscal crisis has made it difficult to commit police personnel to the Drug Abuse Resistance Education Program. The State Police has had to terminate its School Resource Officer Program. Cops and kids still belong together.

In 2010, I was introduced to Mentor International, a global organization that promotes innovative and scientifically vetted youth anti-drug abuse programs. At its Prevention Awards Gala in Washington that October, Mentor's founder Queen Silvia of Sweden recognized outstanding programs selected from nominations representing fifty nations.

New York has world class institutions on the cutting-edge of medical, mental health and social welfare research, law enforcement organizations with a proven commitment to kids and organizations that teach, guide and advocate for children. Bring them together on a regional basis to brainstorm and develop concepts for next generation youth anti-drug abuse programs.

The Mentor Awards are given every two years. If we set a goal now and go after it with resolve, imagination and all of the intellectual resources we have at our disposal, we can proudly have a new program to be New York's nominee in the near future. As early, perhaps, as 2014, when Her Majesty will again present her awards.

### TRIAD -- PROTECTING OUR GROWING POPULATION OF ELDERS

In December 1991, I read an article in *The New York Times* about the nature and extent of elder abuse and many forms it takes. As the state had no public safety program to address this problem, I set out to find one. I almost immediately encountered the Triad program, the joint creation of the American Association of Retired Persons, the National Sheriffs' Association and the International Association of Chiefs of Police (IACP is today directed by two distinguished alumni of the New York State Police Bart Johnson and Jim McMahon). Since it was first proposed in 1988, Triad has evolved into the nation's preeminent public safety program focused on the needs and concerns of our rapidly growing population of senior citizens. Working with then Assemblymember RoAnn Destito and Senator Dean Skelos, we prevailed upon the Legislature to send Governor Mario Cuomo a bill (Chapter 111, Laws of 1993) that gave DCJS a mandate to promote the Triad program throughout the state. Triad is as relevant today as it was when it rapidly spread throughout the nation through the 1990s. I call upon the Legislature to encourage Governor Andrew Cuomo to reaffirm the state's commitment to this concept.

### AGENCY CONSOLIDATION

As Attorney General, Governor Andrew Cuomo took the lead in advocating agency consolidation. Since taking office as governor, he has effected a number of mergers and consolidations and more are proposed. As pertains to public protection, we can use this consolidation to better combat organized crime, tax evasion, insurance fraud, Ponzi schemes and all manner of white-collar crime that are bleeding us dry. Fully 20% of New York's tax revenue derives from the financial industry. After 9/11, federal enforcement efforts in all forms of white collar and financial crimes were sharply reduced. The economic crisis may have changed that, but while we're waiting for the feds to lurch toward the next crisis, the State of New York must act to enhance our ability to protect banking and insurance -- as the governor has proposed -- and, I would suggest, state revenue.

The three state agencies charged with oversight of banking, insurance and revenue collection respectively all maintain investigative divisions. Their agents are designated peace officers (CPL section 2.10, subdivisions (4), (47) and (61)). Simple legislation can amend the Criminal Procedure Law to give them full police officer status under CPL section 1.20. We can then work toward forming these units into a cooperative force to work with the State Police and



other agencies to fight a variety of forms of organized crime, terrorism, banking and insurance fraud and tax evasion that affect the financial industry and the state's revenues -- forms limited only by the boundless ingenuity of those inclined to crime, corruption and fraud. The highly specialized expertise of these investigators will considerably amplify the effectiveness of our full panoply of state and local law enforcement agencies and add another dimension to our seamless continuum of cooperation in public protection.

## CAMPUS/HOMELAND SECURITY

In the recent past, I assisted the union that represents police supervisors for the State University Police in promoting their proposal to centralize the administration of all the SUNY campus police departments. In investigating their issue, Chief Frank Wiley of SUNY Albany Police Department brought a very important problem to my attention that affects all of New York's institutions of higher learning. Simply put, campus security agencies are not eligible for federal homeland security funding -- even those whose officers have full statutory police status as do the SUNY Police. I believe, and I hope you will agree, we should be working with our Congressional delegation to change that.

Our institutions of higher learning constitute an engine of future economic development and prosperity for the state and people of New York. The SUNY system alone is comprised of some 1.6 million students, faculty, scientists, researchers, administrators and many others who live, learn and work on its campuses. These campuses house billions worth of sophisticated equipment, laboratories and other critical infrastructure. They are developing valuable intellectual property that is a target for theft, espionage, sabotage and worse. Our investment in this infrastructure of higher learning and research and development is critical to national security and to our state's continued economic competitiveness. These institutions need to be better protected.

## CIGARETTE TAXES

The illicit trafficking of tobacco -- much of it in the form of counterfeited name-brand products -- is a multibillion-dollar global business today, fueling organized crime and corruption, robbing governments of tax revenue, and spurring addiction and disease. So profitable is the trade that tobacco is the world's most widely smuggled legal substance. It is estimated that fully half the cigarettes sold in New York alone are untaxed. The association representing convenience store owners estimates that the state loses \$1.7 billion a year in lost revenue from untaxed cigarette sales. And they know nothing of the revenues lost through bootleg tobacco traffic. This fixation that we have on the state's Native American communities and their refusal to collect and remit state taxes misses the point entirely. Bootleg tobacco products are produced and trafficked by powerful organized crime syndicates in many nations, most notably the Peoples Republic of China and North Korea.

New York has to recognize that every time we jack up the taxes on cigarettes, as we did two years ago year, we increase the value of this form of contraband quite considerably, drive the expansion of the black market, contribute to the profitability of criminal enterprises the world over and, yes, we support terrorist organizations. Having gone forward with this

dubious initiative, we should, at the very least, turn the Petroleum, Alcohol and Tobacco Bureau of the Department of Taxation and Finance, which investigates revenue crimes, into a fully empowered and capable police agency because its employees are facing on a day to day basis increasingly powerful and vicious criminal organizations engaged in ever-growing and lucrative contraband trafficking. It's not the Indians they're up against. It's the global Mafia.

#### THE NEW YORK STATE POLICE -- 1917-2017

On April 11, 1917, Governor Charles Whitman signed Chapter 161 of the Laws of 1917 which created the Department of State Police. Four years hence, we will be celebrating the centennial of the NYSP here in Albany and at troop headquarters and sites of significance in the history of the New York State Troopers all over the state. We have already begun laying plans to make the most of this occasion to project the prestige of the State Police, the dedicated service of generations of Troopers and the compelling saga of New York's pioneering history of leadership and achievement in advancing the best in policing. We look forward to years of exciting collaboration with the Legislature toward making this a celebration to remember.

#### CONCLUSION

I thank you once again for this opportunity to appear before you and share some thoughts about the public protection aspects of this most challenging year of budget-making. I first sat through one of these hearings in 1984. It has always been a privilege to do so. The result of your hard and diligent work has always worked out to the benefit of the state and people of New York. Steep declines in rates of crime in recent years have been the result. You are to be congratulated on this achievement. I wish each and every member of these committees every success in completing this most intricate, demanding and critical aspect of the people's business.

# 2012 MENTOR INTERNATIONAL GALA

WORKING TO REDUCE RISKS AND INCREASE OPPORTUNITIES FOR YOUTH



*In the presence of  
Her Majesty Queen Silvia of Sweden*

Thursday, September 20, 2012

**The Four Seasons Hotel | Washington, D.C.**

6:30 pm – Reception | 7:30 pm – Dinner and Program

Black Tie

Mentor Foundation is the leading international not-for-profit organization promoting the health and well being of the world's youth and preventing drug abuse. Mentor operates with national chapters in USA, Colombia, Germany, Latvia, Lithuania, Sweden, United Kingdom, and with a regional chapter serving 22 Arab countries. Mentor was founded in 1994 by Her Majesty Queen Silvia of Sweden. Since its inception Mentor has worked in 80 countries with more than 90 drug-prevention projects. Its work has reached at least six million young people and 80,000 practitioners, policymakers, parents and teachers.

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