



count and the petty cash fund have been closed and all funds have been transferred to proper UCSF accounts. Further, UCSF will assess the need for additional corrective action, including taking possible disciplinary action against one or more UCSF employees and addressing the need for more formalized training of campus leadership in their managerial responsibilities and accountability.

**The State Needs to Reengineer its Management of Information Technology** (December 1994) includes a management review of the Office of Information Technology (OIT), part of the Department of Finance, which has overall responsibility for the state's information technology (IT) investment. According to BSA, although California spends an estimated \$1.3 billion annually on IT, the state's current model for managing its statewide IT does not work; BSA contends that OIT "has not provided the statewide leadership and coordination for information technology as intended by the 1983 legislation that established the office. Additionally, the OIT's oversight of information technology projects is limited and does not ensure that state departments implement projects successfully." Specifically, BSA found the following deficiencies in OIT's operations:

- The OIT has failed to effectively coordinate multi-agency projects and data center activities, and is not currently ensuring that the state's information technology community is involved in developing policy. According to BSA, these problems have occurred because the OIT has narrowly interpreted its enabling legislation in such a way that it effectively limited its authority over IT matters; additionally, the OIT's resources have not kept pace with the growth in the state's IT, and the OIT has chosen to focus these limited resources on budgetary oversight rather than statewide leadership.

- The OIT's oversight of projects is limited to reviewing documents that it requires departments sponsoring IT projects to submit; however, the OIT does not verify the accuracy of the information in the reports it receives. Also, the scope of OIT's review is limited; it views itself as an "investment committee" to ensure that proposed projects are reasonable investments of public funds. The OIT does not do an in-depth technical review of a project's viability, nor does it assess the individual qualifications of key staff members assigned to projects to ensure that they have the appropriate skills and experience for the particular project.

According to BSA, the state must reengineer the entire statewide IT program

to ensure that the state's interests and assets are protected and used to their maximum potential; BSA recommended that the state establish a statewide cabinet-level chief information officer (CIO) position to initiate the reengineering process. Under BSA's plan, the CIO and the information resources office should be given the powers, duties, and responsibilities to develop and implement a statewide plan for IT; they should provide leadership and guidance to departments, manage and coordinate statewide resources, and monitor and oversee projects based on a risk assessment.

In October, the newly-created Joint Committee on Information Technology in State Government conducted an interim hearing on the state's use of IT. At that hearing, Chief Deputy State Auditor Marianne Evashenk previewed BSA's findings on the state's use of IT in general, including BSA's conclusion that OIT views itself as an investment committee instead of a policy oversight entity; in response, Senator Alfred Alquist questioned why OIT made that assumption, as "[t]hat's not why they were created." (See agency report on OFFICE OF THE LEGISLATIVE ANALYST for related discussion.) Senator Alquist subsequently introduced legislation to abolish OIT (see LEGISLATION).

**State Auditor to Investigate Orange County Financial Situation.** In December, Governor Wilson announced that State Auditor Kurt Sjoberg would examine the financial situation in Orange County—which filed for bankruptcy in December—in order to assess the County's current and future fiscal condition. According to the Governor's office, Sjoberg will determine whether Orange County's income will meet its current financial obligations; he may also be asked to determine whether the County can protect incoming and future revenues from claims by current creditors.

## ■ LEGISLATION

**SB 1 (Alquist).** The Office of Information Technology in the Department of Finance is charged with identifying new applications for information technology, improving productivity and service to clients, and assisting agencies in designing and implementing the use of information technology; OIT operates under the direction of the Director of the Office of Information Technology, who is prescribed specified responsibilities. As introduced December 5, this bill would replace OIT with the Information Services Agency and that Agency would be managed by the Secretary of Information Services, who would have prescribed responsibilities.

The Agency would be charged with improving the state's ability to apply information technology effectively, and assisting state agencies in identifying, designing, and implementing these applications. This bill would require the Information Services Agency or its secretary to, among other things, create a Department of Information Services within the Agency to perform the operational duties and responsibilities of the Agency, including performing the duties and responsibilities of the former OIT, as modified; consolidate state information technology services in a manner to be determined by the executive branch, which may include the consolidation of existing data centers; establish policies regarding an independent validation and verification of state information technology projects; perform responsibilities currently performed by the Department of General Services with respect to the acquisition of information technology and telecommunication goods and services; and form user committees and advisory committees. [S. GO]

## COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY (LITTLE HOOVER COMMISSION)

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The Little Hoover Commission (LHC) was created by the legislature in 1961 and became operational in the spring of 1962. (Government Code sections 8501 *et seq.*) Although considered to be within the executive branch of state government for budgetary purposes, the law states that "the Commission shall not be subject to the control or direction of any officer or employee of the executive branch except in connection with the appropriation of funds approved by the Legislature." (Government Code section 8502.)

Statute provides that no more than seven of the thirteen members of the Commission may be from the same political party. The Governor appoints five citizen members, and the legislature appoints four citizen members. The balance of the membership is comprised of two Senators and two Assembly members.

This unique formulation enables the Commission to be California's only truly



independent watchdog agency. However, in spite of its statutory independence, the Commission remains a purely advisory entity only empowered to make recommendations.

The purpose and duties of the Commission are set forth in Government Code section 8521. The Code states: "It is the purpose of the Legislature in creating the Commission, to secure assistance for the Governor and itself in promoting economy, efficiency and improved service in the transaction of the public business in the various departments, agencies, and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies, and instrumentalities and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...."

The Commission seeks to achieve these ends by conducting studies and making recommendations as to the adoption of methods and procedures to reduce government expenditures, the elimination of functional and service duplication, the abolition of unnecessary services, programs and functions, the definition or redefinition of public officials' duties and responsibilities, and the reorganization and or restructuring of state entities and programs. The Commission holds hearings about once a month on topics that come to its attention from citizens, legislators, and other sources.

## MAJOR PROJECTS

**The Juvenile Crime Challenge: Making Prevention a Priority** (September 1994) is a 150-page report which examines issues spanning the entire spectrum of juvenile justice—from the roots of crime, early intervention concepts, and crime prevention methods to the role of probation, the juvenile court system, and the California Youth Authority (CYA). By way of background, the report notes that of California's 3.5 million youths, about 250,000 are arrested each year. Violent crime by juveniles increased dramatically during the 1980s, and almost twice as many youths were arrested for violent crimes in 1992 as in 1983; and more than \$1 billion annually is spent on the juvenile justice system, which involves both state and local agencies.

Among other things, the report stated that while crime is local in nature and impact, the state must provide meaningful leadership in shaping juvenile anti-violence and crime prevention efforts. The Commission recommended that the state consolidate juvenile anti-crime efforts in

a single agency to provide strong leadership and accountability for results; the state should adopt legislation directing the Board of Education, in conjunction with the Department of Education, to evaluate and promote the use of effective conflict resolution curricula in public schools; and law enforcement officials at all levels of government should increase their emphasis on enforcing existing laws regarding firearms and alcohol.

The Commission also found that, as the nature of juvenile crime has changed, public support for a separate juvenile justice system has eroded and goals for the system have become unclear. According to the Commission, while the juvenile justice system was established with the underlying concept that most children can be salvaged and turned from a life of crime and thus should be handled differently than adult criminals, there is steady pressure from a variety of sources to blur the distinction between juvenile and adult court. The Commission also noted that funding cutbacks have disproportionately impacted the programs with the highest potential for success in diverting juveniles from crime. In response, the Commission recommended that the state direct the proposed new juvenile crime prevention agency to draft a clear statement of philosophy, purpose, and function that focuses on deterrence as the cornerstone of the juvenile criminal justice system, and that the state direct all state agencies involved in anti-crime efforts to make early intervention and prevention programs a top priority.

The Commission also determined that personal accountability and timely, appropriate consequences for actions are elements that should be reinforced by the juvenile justice system; the desire to shield juveniles from publicity to enhance the chances of rehabilitation in many cases should not outweigh the public's right to know about juvenile crime; and the CYA can be most effective and productive as the last-resort, intensive treatment option for serious and chronic juvenile criminals.

**Boot Camps: An Evolving Alternative to Traditional Prisons** (January 1995) explains that as a result of public pressure to find more effective and less costly methods of dealing with criminals, the boot camp concept has gained increasing popularity with policymakers. Although not uniform in definition or format, "boot camps" (commonly referred to as "shock incarceration" in eastern and southern states) involve the use of an abbreviated sentence with a highly intensive daily regime; typically, these camps use a

quasi-military format which instills "discipline, routine, and unquestioning obedience to orders."

According to the report, California is expected to receive up to \$1.3 billion in federal funding over the next five years that may be used for alternative sentencing programs, such as boot camps; recognizing the need to maximize the effectiveness of the forthcoming funding, the Commission examined the state and national experience with boot camps and other work-intensive forms of incarceration. Among other things, the Commission found that correctional boot camps in California have been evolving independently at state and local levels without the benefits of statewide goals, centralized planning, comprehensive minimum standards, or state oversight, thereby increasing the risk of wasted resources and program failures. To correct this situation, the Commission recommended—among other things—that the state direct an appropriate agency to prepare a statewide plan for the cost-effective development of boot camps and related facilities; enact legislation that clearly defines the state's expectations and quantifiable goals for boot camps, prescribes local control coupled with centralized accountability, and establishes the requirement that only projects consistent with such a state policy would be eligible for future state grants or subsidy programs; and authorize the Board of Corrections to establish appropriate minimum operational and program standards for boot camps and to create a licensing-and-inspection process.

The Commission described several existing boot camp pilot projects in California, but found that the limited variety of formats and rigid selection criteria for these pilot programs will not result in a thorough testing of boot camps as an effective alternative sentencing option. In response, the Commission recommended that the state enact legislation that amends the enabling acts for the Department of Corrections' Alternative Sentencing Program boot camp and the CYA's "Leadership Excellence Advise Discipline" (LEAD) program to allow a broader range of offenders to be included in each program; direct the CYA to develop a "junior boot camp" or "leadership academy" pilot program to evaluate its capability to modify the anti-social behavior of younger juvenile offenders; create an accelerated-release pilot project for presently incarcerated adult and juvenile multiple offenders to test the effectiveness of boot camps in rehabilitating a more criminally experienced population; create a pilot pre-release boot camp program to prepare in-



mates for re-integration into society; and direct the Department of Alcohol and Drug Programs to evaluate the substance abuse counseling and treatment capabilities in all California boot camp programs and develop a model intensive program that can secure maximum benefits within available time.

The Commission also determined that the present structure of the boot camp process in California does not ensure that offenders receive adequate treatment, rehabilitation, and job or training placement. Accordingly, the Commission recommended that the state direct the appropriate agency to include in the state comprehensive boot camp plan a three-phase model structure that emphasizes placement of graduates in community-based services, vocational education programs, and job training facilities; create juvenile and adult vocational training facilities available to graduates of public and private boot camp and work/experience-intensive programs; and enhance access to resources by funding a computerized consolidation of listings and descriptions of private-sector community services across the state.

Finally, the Commission found that the role of the private sector in creating alternative sentencing and aftercare programs has been restricted in California by inadequate and inappropriate regulations. Thus, the Commission recommended that the state direct the Department of Social Services to promulgate a new category of regulations for private youth correctional/education/experiential camps in California.

**Little Hoover Commission Biennial Report 1993-1994**, released in January, highlights many of the Commission's efforts on the following nine key topics on which the Commission has focused during the past decade: children's services, crime, the economy, education, elder care, the environment, general government, health, and transportation. Among other things, the Commission noted that its efforts have resulted in the following accomplishments:

- the creation by the Governor of a Cabinet-level Secretary of the Office of Child Development and Education to coordinate children's services;
- the expansion of successful programs that provide services to runaway/homeless youth;
- requirements for a more rigorous review of homes where foster children will be placed;
- reducing good-time credit for violent felons;
- encouraging the use of alternative sentencing for non-violent criminals;

- modifying the Inmate Bill of Rights to give the Department of Corrections more effective control over prisoners;

- the creation of a more effective process for the state to step in when a school district expends funds irresponsibly;

- adoption of initial steps to streamline the school facility construction process;

- the creation of an ombudsman function to provide independent review of skilled nursing facilities and help consumers of those facilities; and

- the creation of a restructured California Integrated Waste Management and Recycling Board to replace the previous landfill-oriented solid waste management board.

**OAL Completes Commission-Requested Regulatory Determination.** In May 1990, the Commission filed a request for a regulatory determination with the Office of Administrative Law (OAL), asking whether five Department of Education (DOE) "advisory bulletins" are regulations and are therefore without legal effect unless adopted in compliance with the Administrative Procedure Act (APA). The Commission's request was an outgrowth of its February 1990 report on California public elementary and secondary education in which it—among other things—criticized the Department of Education for the use of underground regulations and recommended that the Attorney General file a lawsuit against the Department "to prevent further violations of the Administrative Procedure Act" by the Superintendent of Public Instruction. [10:2&3 CRLR 50-51] On December 22, OAL issued 1994 Determination No. 1 (Docket No. 90-021) in response to the Commission's request. Specifically, the Commission asked whether the following advisories constitute regulations under the APA:

- Legal Advisory No. 2-89, alleged to compel "local school districts to reject 'Channel One' and other similar television news programs containing advertising by threatening to delete the portion of the time spent viewing such programs from the districts' certifications as to days and minutes of instruction..." (the "Channel One Advisory");

- Fiscal Management Advisory 89-04, which "purports to limit the discretion of local school districts by requiring the districts to restrict to a maximum of twenty hours the amount of time a student may work each week" (the "Work Permit Advisory");

- Two related Program Advisories: Number 89/9-2, dated October 12, 1989, and Number 89/9-5, dated November 6, 1988, which "expressly purport to formulate standards to interpret the supplemen-

tary grants program created by legislation implementing Proposition 98" (the "Supplemental Grants Advisories"); and

- Program Advisory 87/8-2, dated August 26, 1987, which "provides 'advice' concerning the use of categorical program funding after the 'sunset' of the provisions in the authorizing legislation regarding such use" (the "Categorical Funding Sunset Advisory").

Among other things, OAL concluded that parts of the Program Advisories and the Fiscal Management Advisory are not regulations, but that each of these Advisories contain some provisions which are regulations; also, OAL determined that the Legal Advisory rule prohibiting state reimbursement to local school districts for time pupils spend viewing Channel One commercials is a regulation. (See agency report on OAL for related discussion.)

## DEPARTMENT OF CONSUMER AFFAIRS

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The Department of Consumer Affairs (DCA) oversees the activities of 37 administrative agencies which regulate 180 diverse professions, occupations, and industries. The primary function of DCA and its constituent agencies is to protect consumers from incompetent, dishonest, or impaired practitioners.

Most of the multi-member boards under DCA's jurisdiction are relatively autonomous of DCA control. However, the DCA Director is authorized to review and reject regulatory changes proposed by all DCA agencies; only a unanimous vote of the agency's board will override the Director's rejection. Additionally, the Department may intervene in matters regarding its boards if probable cause exists to believe that the conduct or activity of a board, its members, or its employees constitutes a violation of criminal law.

DCA maintains several divisions and units which provide support services to its constituent agencies, including a Legal Unit whose attorneys advise DCA boards at meetings and regulatory hearings; a Division of Investigation whose investigators gather evidence in complaint cases filed against the licensees of some DCA agencies; a Legislative Unit which assists agencies in drafting language for legisla-