the unnecessary separation of children from their families by assisting families in resolving their problems. State law establishes and defines four programs—Emergency Response, Family Maintenance, Family Reunification, and Permanent Placement—within Child Welfare Services. Foster care essentially occurs within the Family Reunification and Permanent Placement programs.

The review uncovered several shortcomings. For example, the County may be overplacing foster children in county foster homes. State law allows no more than three special needs foster children requiring special in-home health care to be placed in a foster home. However, the report states that 9% of the homes to which the County reported making payments for children with special health care needs may be caring for more than three special needs children. As a result, these children may not be receiving adequate or appropriate care.

Also, County social workers are not complying with visitation or medical history requirements. For example, the report estimated that social workers made only 41% of the required face-to-face visits with foster children, only 26% of the required face-to-face visits with parents or guardians of the children, and only 44% of the required contacts with the foster parents. One of the children in the review had not been seen by a social worker for seventeen months. Also, 72% of the foster parents surveyed had not received a medical history for the child at the time of placement. The report noted that the lack of visits and contacts is due, in part, to the excessive caseloads being managed by County social workers. However, the report notes that these excessive caseloads could be significantly reduced if the County filled all of the social worker positions authorized by its budget.

Other findings noted in the report include the following:

-DSS did not conduct compliance audits of the County's foster care program every three years as required, and did not ensure that the County correct deficiencies found during the last compliance audit.

-DSS takes an average of twelve months to process requests for license revocations against foster parents who may be neglecting or abusing children in the County.

-DSS failed to take the necessary steps to claim an estimated $156 million in federal funds from March 1987 to June 1, 1990, for administering the state's foster care program in all 58 counties.

To ensure that the foster care program of the Los Angeles County Department of Children's Services meets state requirements, the report recommended that the County:

-hire additional social workers to fill all the positions authorized by its budget;

-enforce state law, regulations, and County policies that require social workers to comply with visitation and medical history requirements and to place foster children appropriately; and

-develop and implement corrective action plans to correct deficiencies found during its internal reviews.

Further, to ensure that all counties' foster care programs meet state requirements and that the state receives all available federal funds, the report suggested that DSS:

-monitor the County's progress in complying with state laws that allow no more than three special needs children to be placed in a foster home;

-conduct statewide compliance reviews of the Child Welfare Services program, as required;

-develop formal procedures for ensuring that counties take corrective action once DSS has determined that the counties are out of compliance with state regulations;

-establish formal procedures for the timely processing of license revocations against foster parents; and

-aggressively pursue all available federal funding.

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

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The Little Hoover Commission 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 Assemblymembers.

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:

Real Property Management in California: Moving Beyond the Role of Caretaker (October 1990). According to this report, California owns, leases, and manages a significant number of real property holdings; as of July 31, 1990, the state owned 3,097 properties totalling more than 2.1 million acres. State properties are divided into four categories based on their use and the method of acquisition: operational properties, which include recreational properties (public trust lands such as parks, wildlife refuges, and other recreational holdings) and administrative holdings (such as office buildings, warehouses, and garages); institutional properties (such as prisons, hospitals,

and universities); sovereign lands (acquired from the federal government for a particular use, including school lands, navigable watercourses, and coastal waters to the three-mile international limit); and operating rights of way (including state highways, roads, aqueducts, dams, and water projects).

According to the Commission, California does not manage the state's property to the maximum benefit of its citizens. California's custodial management style focuses on retaining real property and adding to the property portfolio as capital outlay funds become available. This style of management tends to view state-owned real properties as permanent fixtures having value only in terms of their present use; any other value is unknown and irrelevant. The Commission urged the state to adopt a "proactive property management system," which is the comprehensive, planned management of the state's diverse portfolio of real estate to assure optimum use for the state's operations and maximum value from the surplus. The Commission's study identified four specific findings:

-The state's organizational structure for developing and implementing a proactive property management system is incomplete and inadequate. The current organization structure for acquiring, managing, and financing California's real property is divided among at least 76 separate administrative agencies. Although proactive property management may be followed to some extent in certain agencies, it is not coordinated among all agencies; nor is valuable real estate experience shared among the agencies. This fragmented system inhibits effective centralized management of the state's real property, and has led to inconsistent policies, a lack of central accountability, and a potential increase in state costs and loss of revenue.

-The state's system of planning for its long-term real property and capital outlay needs is fragmented and incomplete. Although the state has significant real property holdings and enormous capital outlay requirements, no comprehensive long-term planning for capital outlay or maintenance needs exists. The state also lacks a method of evaluating how existing real property might be used to satisfy current capital needs. Instead, needs are reviewed in the context of individual departments rather than on a statewide basis. This system ultimately could cost the state millions of dollars in lost opportunities, which could be avoided with efficient, proactive property management.

-The statewide property inventory (SPI) will require additional work to be effective in proactive management of individual properties. The Department of General Services failed to complete the SPI until a year after its due date, and it still requires additional information, such as a detailed description of current use, extent of use, and estimated value of individual properties. The Commission considers this information critical to proper management of many of the properties. Additionally, the SPI information must be verified to ensure its accuracy.

-Current state statutes, policies, and procedures inhibit the proactive management of the state's real property. Real property management is considered to be irrelevant to the primary service delivery mission of most property-holding agencies, and no incentive programs are in place to reward managers whose proactive management results in a financial benefit to the state. The state may be losing opportunities to make more efficient and effective use of its properties.

In general, the Commission recommends that the state adopt a proactive approach to the management of its property. The report made specific recommendations, including the following:

-The Public Works Board (Board), which is the only existing state oversight entity for property acquisitions, has ties to the state's legislature, financial department, and major property-holding agencies. The Board should be significantly expanded in authority and revised in composition. The restructured Board should be the central administrative organization for the state's proactive real property management activities.

-The Board should be expanded by adding public members and representatives from state financial offices and the legislature.

-Legislation should require each state agency to submit to the Board an annual capital outlay action and maintenance plan for the next five years, and a more general, longer-range ten-year plan. The Board should prepare a multi-year capital outlay master plan and a systematic maintenance program.

-The SPI should contain a description of the estimated value, current and projected use, and extent of use of each state property.

-The Board should be authorized to declare as surplus any of the state's real property and create incentives for proactive management performance.

A Prescription for Medi-Cal (November 1990). In this long-awaited report, the Commission noted that Medi-Cal is a complex program, intended to meet the health needs of California's poor. Funded roughly 50% by the federal government and 50% by state government, Medi-Cal's 1990-91 budget allocates $8.1 billion to meet the needs of 3.7 million recipients, most of them either families on welfare or the aged, blind, and disabled. Since Medi-Cal is one of the state's largest expenditures, its effectiveness and efficiency have a strong impact on the overall value that Californians receive for their tax dollars.

Based on two public hearings, an extensive review of literature, and numerous interviews, the Commission concluded that, despite good intentions, Medi-Cal falls seriously short in providing uniform and equitable health care to California's poor. According to the Commission, "the program is riddled with procedural barriers that block access to medical care and discourage provider participation in the system." In its 100-page report, the Commission addressed problems in four separate areas:

-Eligibility—despite state-established eligibility guidelines, county variation in procedures and efficiency, and the complexity of the eleven-page application form causes arbitrary and inequitable barriers. Eligibility workers are frequently overwhelmed by regulation changes and growing caseloads, and applicants for Medi-Cal cards can expect to wait anywhere from 30-90 days for a response.

Addressing the multi-faceted eligibility problem, the Commission recommended that the state implement a statewide computer system to enable county workers to determine eligibility, with the assistance of federal funds for most hardware costs. The report also noted that the existing eleven-page application form is being revised by the Sierra Foundation. This new form requires only a ninth grade education and will be implemented in 1991.

The report also recommended a presumptive or specialized eligibility for some applicants, such as pregnant women, SSI/SSP recipients, and nursing home residents. Citing existing incentives to discourage wrongful eligibility, the report suggested the creation of incentives to encourage counties to enroll legitimate Medi-Cal recipients.

-Managed Care—Medi-Cal relies primarily on fee-for-service medical care providers, but the program permits other forms of service, such as capitated care (an HMO model) or managed care. The traditional advantages of capitated systems are the lower cost to the payor and incentives to the provider to lower costs. While capitated systems have generally increased, Medi-Cal's capitated care

programs have remained static, covering less than 10% of beneficiaries. While acknowledging some criticism of capitated systems, the Commission noted that several prepaid health plans in California have been successful, and recommended legislative support for capitated care. This legislation should include safeguard provisions (*e.g.*, guaranteeing timely access, preventive care, and complaint/grievance procedures) and incentives for beneficiaries to choose capitated care.

The Commission also evaluated Medi-Cal's current detailed treatment authorization method. Providers must obtain prior authorization for all surgery, long-term care admittance, hospital inpatient stays, some office procedures, non-emergency medical transportation, medication not on Medi-Cal's list of allowed drugs, and all optional medical care (*e.g.*, psychiatric care). The Commission found that many providers are unwilling to perform the burdensome steps required, in spite of their belief that treatment is medically necessary. Without approval, the Medi-Cal recipient is denied coverage for the treatment. The Commission recommended the elimination of this approval process for routinely authorized medical procedures.

-Reimbursement—the Commission reported that the complex and lengthy billing process itself is a major reason many providers refuse to participate in Medi-Cal. The Commission recommended that the Medi-Cal claim form be modified to mirror other types of health care provider claim forms. The Commission also recommended that Electronic Data Systems, the fiscal intermediary for Medi-Cal, be directed to use its expertise to improve the current reimbursement system.

-Prescription Drugs—the Commission noted two problems with the state's procedures for purchasing drugs for Medi-Cal recipients: the state was paying top dollar due to its inability to bargain for discounts, and it had a rigid formulary which did not keep pace with developing drug therapies. While acknowledging the 1990 passage of Medi-Cal Drug Discount Program legislation (which enables the state to negotiate contracts with drug manufacturers), the Commission noted that the legislation creates a potential conflict of interest, because it gives the Department of Health Services (DHS), which already has the power to exclude drugs from the approved list, the authority to bargain over prices. Additionally, the legislation includes a two-year sunset provision.

The Commission recommended that this legislation be revised to give the California Medical Assistance Commission (CMAC) the power to bargain for state health care services, including prescription drugs. Under this arrangement, CMAC would work closely with DHS, which would retain the authority to determine which drugs should be included on the Medi-Cal formulary. The Commission also recommended that the legislation be made permanent.

K-12 Education. On October 25 and November 15, the Commission held hearings on K-12 education, focusing on the portion of funding which reaches the classroom. The Commission staff expects the report on K-12 education will be completed by April 1991.

DEPARTMENT OF CONSUMER AFFAIRS

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In addition to its functions relating to its 38 boards, bureaus, and commissions, the Department of Consumer Affairs (DCA) is charged with carrying out the Consumer Affairs Act of 1970. The Department educates consumers, assists them in complaint mediation, advocates their interests before the legislature, and represents them before the state's administrative agencies and courts.

MAJOR PROJECTS:

Vehicle Arbitration Program. Through its Bureau of Automotive Repair, DCA recently certified California's first state-approved program to bring new car consumers and automakers together to resolve disputes without resort to the court system. The program allows consumers to pursue warranty repairs, a replacement, or a refund during the time their vehicle is covered by an express written warranty. The Department has approved programs sponsored by General Motors, Ford, Toyota, Saab, and Volkswagen/Audi, and is considering applications from Chrysler, Maserati, and Peugeot. Approximately 60% of all new vehicles sold in California are now affected by the program, which was created pursuant to a 1987 bill, AB 2057 (Tanner). (See CRLR Vol. 7, No. 4 (Fall 1987) p. 104 and Vol. 7, No. 3 (Summer 1987) p. 129 for background information.)

Hearings are conducted by volunteer and independent arbitrators trained in appropriate state laws and regulations. When the program receives an application for a hearing, the arbitrator seeks information from the buyer and manufacturer and renders a decision, normally within forty days. Arbitrators may arrange for mechanical inspections by independent experts and may order, where appropriate, a refund or exchange of the vehicle or further repairs. Automakers are bound by the arbitrators' decisions; however, consumers may reject the finding and pursue the case in court. Automakers bear the costs of the program, but have an incentive to apply for certification; those who decline to join the program may be subject to punitive damages in cases where consumers prevail in court.

Hearing on Access to Legal Services. On November 14, DCA held a public hearing on the issue of consumer access to legal services for persons of low or modest means. The topics addressed included consumer legal access difficulties; the benefits and limitations of alternative legal services, such as small claims court, informal dispute resolution, arbitration, and pro bono legal services; the special legal needs of ethnic communities and senior citizens; and consumer issues regarding the proposed licensure/certification of legal technicians. (*See infra* LEGISLATION; see also CRLR Vol. 10, No. 4 (Fall 1990) pp. 42 and 185 for background information on the legal technician movement.) The hearing was held in San Francisco, and received substantial participation. A report on the hearing was scheduled to be released in February.

Conflict of Interest Code. DCA recently filed proposed changes to its Conflict of Interest Code with the Office of Administrative Law (OAL). (See CRLR Vol. 10, No. 4 (Fall 1990) p. 43 and Vol. 10, No. 1 (Winter 1990) p. 41 for background information.) OAL approved the changes on October 30; DCA subsequently notified affected employees that they must comply with the requirements of the revised Code by filing Form 730—Statement of Economic Interest.

Publications. In honor of the twentieth anniversary of the Consumer Affairs Act of 1970, DCA will release a new edition of *The Complete California Consumer Catalog* in early 1991. Last updated in 1981, the guide covers more than forty topics and contains information about consumer rights and buying tips.

DCA recently released a publication entitled *Professional Therapy Never Includes Sex!* This 24-page booklet was developed pursuant to SB 1277 (Watson), enacted in 1987, to help victims of psychotherapist sexual exploitation, and