



alyzed a random sample of 124 requests out of 6,369 requests received by OSR in the last two weeks of January 1988. To determine whether records were stored appropriately, the OAG visually inspected both original records and microfilm copies at OSR and at an archive vault at the State Records Center of the Department of General Services.

The OAG report concludes that OSR maintains the state's vital records in an accessible form and responds promptly and accurately to most requests for certified copies and changes to certificates. The OAG discovered that OSR does not have indices for marriage certificates registered after March 1986, and thus may be unable to answer requests for copies of these documents. However, marriages certificates are available from the county in which the marriage occurred.

OAG reports that vital records are stored and preserved appropriately. However, back-up microfilm copies of certificates processed after 1983 are not stored at the state's archive vault. OAG recommends that OSR ensure that all back-up microfilm copies of the vital records are promptly stored in the archive vault of the Department of General Services so records can be preserved in the event of a catastrophic accident. Further, OAG recommends that OSR continue its efforts to complete the indexing of all outstanding records.

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

Executive Director:

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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 real, 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.

MAJOR PROJECTS:

Crime and Violence in California's Public School System (December 1988). The Commission began this study in July 1988 as a result of "the high incidence of crime and violence that affect the students and staff in California's public schools." The state constitution guarantees a "right to safe school campuses," yet in 1986-87 students and staff in California school districts were exposed to approximately 70,000 violent crimes (such as assaults, homicides, sex offenses, robberies, and possession of weapons), and 71,000 property crimes (such as arson, burglary, theft, and vandalism) totalling \$23 million. In addition, alcohol and drug abuse continues to be a major concern. More than 80% of eleventh-graders have tried alcohol and over 60% have been intoxicated. About 50% of eleventh-graders have tried illegal

drugs such as marijuana, cocaine, and amphetamines.

The Commission found that, as a result of crime and violence in our schools (and the fear of it), many teachers are not able to teach and many children are not able to learn; and schools are exposed to substantial legal and financial liabilities, including the costs of providing security at schools, insurance, legal counsel, and the cost of property crimes.

The Department of Education, under the Superintendent of Public Instruction, is responsible for administering California's public education system. Approximately 4.9 million students will attend public schools in 1,025 California school districts in fiscal year 1988-89. The Department of Education will spend approximately \$14.7 million in state and federal funds in 1988-89 to combat the problems of school crime and violence. School districts will spend hundreds of millions of dollars more.

In a stinging indictment, the Commission places the blame for school crime and violence squarely at the feet of state government, particularly those of the Department of Education and its Superintendent of Public Instruction: "the State has failed to provide the leadership and direction that is necessary to ensure the safety of children." The report alleges that:

-Instead of working to ensure the safety of students and staff, the Superintendent of Public Instruction has tried to limit the liability of schools;

-In 1987 the Governor vetoed a measure that would have required the Department of Education to develop a comprehensive drug and alcohol abuse prevention program; and

-The Department has consistently failed to adopt model curriculum standards patterned after the highly successful Drug Abuse Resistance Education (DARE) program.

Statutes require schools and school districts to report crime statistics to the Department of Education. These statistics are used to identify problem areas. Without accurate statistics, state and local governments, schools, and school districts cannot effectively analyze crime problems or appropriately direct resources to eliminate the incidence of school crime; and, at a minimum, the effectiveness of programs aimed at curbing the problems, such as DARE, are diminished. Nevertheless, the Commission found that these statistical reports are inaccurate because of inconsistent interpretations by the districts of Depart-



mental instructions. The inconsistencies have resulted from differences in district data collection techniques and intentional underreporting of crime to avoid adverse publicity.

According to the Commission, "[w]hen schools do not educate our children, it is a tragedy. But when schools fail at the very minimum to keep our children safe, it is nothing short of a scandal." If not addressed, school crime and violence problems "will continue to grow dramatically." To turn the tide, the Commission offers the following recommendations:

- The Governor and the Legislature should enact legislation that would provide incentives to encourage parental and community involvement; support and expand existing school and law enforcement partnerships; require an annual school safety plan for each school; establish a nongovernmental institute for school safety; mandate attendance by school districts at the Department of Education's workshops on school crime reports; and authorize criminal sanctions against principals and county superintendents who intentionally misreport data.

- The Governor should designate a percentage of the discretionary funds now available through the Office of Criminal Justice Planning, the California Youth Authority, and the Federal State Advisory Group on Juvenile Justice and Delinquency Prevention to assist with implementing school safety programs.

- The Department of Education should adopt model curriculum standards for alcohol and drug abuse education that incorporate the components of the successful DARE program; require, as part of the curriculum for attaining teaching and administrative credentials, training in areas such as safety, alcohol and drug prevention and intervention, youth gang prevention and intervention, legal responsibilities, and methods of handling disruptive activity on campus; and rename and clarify its instructions for its reporting forms.

- The Superintendent of Public Instruction should allocate sufficient funds for the Department of Education to develop and implement a system for monitoring school crime reports for completeness and accuracy; and assume an aggressive leadership role by placing a high priority on school safety.

A Review of the Operation and Performance of the Office of the State Public Defender (October 1988). The U.S. Supreme Court has interpreted the Sixth Amendment of the U.S. Constitu-

tion to require that federal, state, and local governments provide legal counsel to indigent criminal defendants. The Office of the State Public Defender (OSPD) and the private court-appointed counsel system duplicate the responsibility for this function in California.

OSPD, established in 1976, is part of the executive branch. It is empowered to represent indigent defendants in various matters, including but not limited to appeals, petitions for hearing or rehearing to an appellate court, petitions for certiorari to the U.S. Supreme Court, or petitions for executive clemency; hearings to extend commitments of indigents found not guilty by reason of insanity; proceedings after a judgment of death; and any proceeding where a person is entitled to representation at public expense.

The system of court-appointed counsel is part of the judicial branch and consists of three major parts: the private bar, whose members accept court appointments and perform actual casework; the appellate projects—usually nonprofit corporations under contract to the Judicial Council and the Administrative Office of the Courts, which recruit and evaluate counsel for court appointment; and the Administrative Office of the Courts, which provides administrative, budget, and statistical support to the appellate projects and processes payments for appointed counsel.

Two concerns prompted this study: increasing costs and the potential for serious delay in the justice system. Indigent appellate defense costs have increased dramatically since 1973. In fiscal year 1973-74, private appellate counsel cost \$859,920. In fiscal year 1988-89, the cost is projected at \$32 million, a 230% increase over the \$9.7 million figure for fiscal year 1981-82. The current budget for OSPD is \$7.2 million (22.5% of total indigent defense expenditures). The \$24.8 million balance funds the appointment and supervision of private court-appointed counsel.

The Commission found that "the division of responsibility for indigent appellate defense between two systems in separate branches of State government creates inefficiencies and duplication in program administration, and results in greater cost and less efficient case handling." The division has engendered competition between the two systems for assignment of certain types of cases which its own staff pool can handle with a minimum of difficulty. In addition, certain types of cases are disproportionately assigned to a particular

organization, often resulting in work overload, untimely filings, and delays and backlog in the appellate process.

The Commission reported seven findings regarding the operation of OSPD and indigent appellate defense generally:

- Indigent appellate defense could be provided more effectively and at a lower cost.

- Professional work performed by OSPD is more complex than that performed by court-appointed private counsel and the quality is at least comparable.

- While OSPD has recently focused on capital and complex non-capital cases (that is, cases with sentences of fifteen years to life, life without parole, or death), it cannot meet its own workload goals. This places increased burdens on the courts and the private counsel system to redirect and absorb unassigned cases.

- OSPD has not developed workload standards for measuring staff performance.

- OSPD has not implemented an effective management information system for tracking cases and monitoring or controlling its work product.

- OSPD has not developed a consistent case selection process, which hampers its workload management efforts.

- The amount of work associated with death penalty appeals in the state has expanded because of the increase in the number and complexity of appeals, and is projected to continue to expand.

The Commission acknowledged that the current State Public Defender "apparently is attempting to direct the Office towards efficiency and accomplishment in accordance with original legislative intent, but his efforts come too late." To promote the timely and effective resolution of criminal appeals, vital to fair and impartial administration of justice, the Commission suggested that:

- The Appellate Defense Agency (ADA)—a single autonomous agency within the judicial branch—should merge the functions of the current OSPD, the Appellate Projects, and private court-appointed counsel. The OSPD should be abolished. Cost savings and greater efficiency from the consolidation of administrative functions should result.

- The ADA should be headed by a director appointed by the Judicial Council, staffed by attorneys appointed by the director, and charged with handling all California criminal appeals. It should contract with the Administrative Office of the Courts for administrative support services. The ADA may also contract with other individuals and groups to accept appointments or supervise crim-



inal appeals as necessary.

-The ADA should be limited to legal representation of indigents convicted of felonies; it should not engage in legislative advocacy or educational efforts on behalf of incarcerated individuals.

-Pending the institution of the ADA, OSPD should continue to develop, implement, and enforce its workload standards.

-The current OSPD and the new ADA should increase their law clerk programs to expose more law students to the work and identify potential staff candidates.

-The current OSPD and the new ADA should implement a comprehensive timekeeping and docketing system.

-The ADA should collect, maintain, and annually report to the Judicial Council cost information relating to indigent criminal appellate defense; and the Judicial Council should periodically perform detailed cost efficiency studies of the ADA and its functions.

DEPARTMENT OF CONSUMER AFFAIRS

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

MAJOR PROJECTS:

Small Claims Court Support Program. In conjunction with the Department's ongoing function to act as a legal resource on small claims court procedures (see CRLR Vol. 8, No. 3 (Summer 1988) pp. 39-40), DCA has recently published a source book for judges and officials in small claims court entitled *Resolving Disputes: Source Book for Small Claims Court Judicial Officers*. The 354-page source book complements the training provided to small claims court judges by Mary-Alice Coleman, Executive Officer of the Dispute Resolution Advisory Council and legal counsel for DCA.

Dispute Resolution Program. This DCA-sponsored program consists of a network of informal and affordable county-based mediation centers through-

out the state, based on the idea that an impartial mediator can often help adversaries reach a mutually satisfactory settlement. It is hoped that the program will defuse many disagreements which might otherwise end up in an already crowded state court system. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 33 for background information.)

On December 2 in Sacramento, the Dispute Resolution Advisory Council was scheduled to hold a public hearing on proposed regulations which would establish funding and operating procedures for the statewide local dispute resolution programs. The proposed regulations include provisions which would require grantees to promote their services by educating the public and other potential referral agencies about dispute resolution processes; set forth standards for allocating and disbursing grant funds; and require counties to establish an interest-bearing account into which all revenues generated pursuant to the Dispute Resolution Programs Act would be deposited.

The December 2 hearing was the final meeting of the Dispute Resolution Advisory Council, which is to be dissolved under sunset provisions included in the Dispute Resolution Programs Act. The DCA is now responsible for overseeing the statewide local dispute resolution programs.

Public Relations and Publications. A new DCA public outreach program airs twice a month on KEZR-FM in San Jose. The radio broadcast is entitled "Sunday Morning Magazine", and includes invited guests who speak on consumer-related issues and problems. The broadcast reaches two million residents and is heard from Los Gatos to Daly City.

DCA's *Consumer Connection* newsletter is expanding to include federal and state legislation and court decisions which influence California consumer issues, as well as the decisions of federal regulatory bodies.

Two new brochures published by DCA are available free of charge. *California Consumers* is a brochure which identifies the responsibilities of the Department and suggests direction for consumers with specific problems or questions. *From Credit Despair to Credit Repair* is a ten-page booklet outlining the steps a consumer should take to repair credit after experiencing financial difficulty. The booklet also informs consumers of their legal rights in the credit area and explains why credit service agencies often cannot help consumers repair a poor credit record.

ASSEMBLY OFFICE OF RESEARCH

Director: Steve Thompson
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Established in 1966, the Assembly Office of Research (AOR) brings together legislators, scholars, research experts and interested parties from within and outside the legislature to conduct extensive studies regarding problems facing the state.

Under the direction of the Assembly's bipartisan Committee on Policy Research, AOR investigates current state issues and publishes reports which include long-term policy recommendations. Such investigative projects often result in legislative action, usually in the form of bills.

AOR also processes research requests from Assemblymembers. Results of these short-term research projects are confidential unless the requesting legislators authorize their release.

MAJOR PROJECTS:

According to AOR, no new reports are ready for publication at this writing.

SENATE OFFICE OF RESEARCH

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Established and directed by the Senate Committee on Rules, the Senate Office of Research (SOR) serves as the bipartisan, strategic research and planning unit for the Senate. SOR produces major policy reports, issue briefs, background information on legislation and, occasionally, sponsors symposia and conferences.

Any Senator or Senate committee may request SOR's research, briefing and consulting services. Resulting reports are not always released to the public.

MAJOR PROJECTS:

We Believe in the Future: Adolescent Pregnancy and Parenting in California (undated). According to this 1988 SOR publication, "California leads the nation in both the total number of births to teenagers and the percentage [of] births to teenagers." More than 10% of all births in California are to teenage women. In 1986, 51,817 babies were born to Californians aged 15 through 19, and 901 babies were born to girls aged 14 or younger. The counties of Los Angeles, San Diego, Orange, San Bernardino,