-The complexity of the grant program itself makes prompt implementation difficult.

-The federal government failed to promptly provide services or essential information, such as the promulgation of regulations for claiming costs and the processing of aliens' applications for temporary residency status.

-State decisions regarding budgeting and approving costs to be charged to the program have contributed to delays.

-Some counties lack information about requirements for claiming costs and fail to act on available information.

-Finally, for most programs, aliens have little or no incentive to identify themselves as eligible to have the costs of services reimbursed under the SLIAG program, since no additional benefits accrue to them for doing so.

Report No. F-426.1 (October 1991) concerns the actions of the Department of Toxic Substances Control (DTSC) in billing responsible parties and recovering approximately $222 million in costs incurred by DTSC from fiscal year 1981–82 through 1989–90 in monitoring and cleaning up hazardous waste sites. Although state law requires DTSC to recover such costs from those responsible for the hazardous waste, the Department has billed responsible parties for only $45 million and has collected just $16 million. According to OAG, the statute of limitations may prevent DTSC from recovering $31 million of the costs incurred for fiscal years 1981–82 through 1984–85. However, DTSC estimates that approximately $85 million of the $135 million in costs incurred from fiscal years 1985–86 through 1988–89 may be collected; the Department has not yet determined the collectibility of the $56 million of costs incurred in fiscal year 1989–90.

OAG found that some costs cannot be recovered because DTSC cannot identify the responsible parties. In addition, some responsible parties that are identified are either bankrupt or financially unable to repay all of the costs.

To improve DTSC's ability to recover the public funds spent cleaning and monitoring toxic waste sites, OAG recommends that the Department ensure that all costs that can be billed to responsible parties are billed promptly, and account for all clean-up costs, including costs that DTSC has determined it cannot bill to responsible parties or cannot collect.

Report No. P-054 (November 1991) is a review of the California State University's (CSU) disabled student services. The CSU Chancellor's Office allocated $7.9 million in fiscal year 1990–91 to the twenty CSU campuses to provide services for disabled students. OAG found that the twenty campuses spent $600,000 less than they were allocated for disabled students, including $400,000 in funds budgeted for employee benefits. Also, two campuses paid approximately $75,000 to employees on the disabled student services payroll who did not work with disabled students, but in career counseling and international student programs. CSU's Northridge campus provided benefits to students without verification of their disabilities because the school lacks a system to identify those students receiving services who have not provided documentation of their disabilities.

OAG concluded that the Chancellor's Office should establish a system to monitor the campuses' disabled students services program to ensure that all funds allocated for disabled student services are budgeted by the campuses to provide those services, campuses spend disabled student services funds only on services for disabled students, and campuses promptly verify each student's disability.

Report No. F-864 (December 1991) reviews the usefulness of Domestic Disclosure Spreadsheets to the Franchise Tax Board (FTB). The spreadsheets disclose financial information on the operations of multinational banks and corporations and their affiliates in each state; FTB anticipated using this information to ensure compliance with California tax laws. OAG found that FTB has only recently trained its auditors to use the spreadsheets and that they have reviewed only a small percentage of the spreadsheets filed by these corporations. As a result, OAG made no definitive conclusion about the usefulness of the spreadsheets to FTB's audits. Preliminary responses from FTB auditors ranged from positive comments regarding the usefulness of the spreadsheets to comments that the spreadsheets are unnecessary. OAG noted that FTB has assessed penalties of approximately $1.8 million against corporations that failed to file, filed late, or filed incomplete spreadsheets.

LEGISLATION:

SB 1132 (Maddy), as introduced March 8, would require the Auditor General to complete audits in accordance with the "Government Auditing Standards" issued by the Comptroller of the United States. This bill is pending in the Senate Rules Committee.

LITIGATION:

On October 10, the California Supreme Court upheld the constitutionality of Proposition 140, the term limits initiative approved by voters in November 1990. In ***Legislature v. Eu***, No. S019660, the court rejected arguments that the initiative improperly infringes on the voters' right to their choice of candidates or the candidates' right to run for public office. Although the court struck down a provision of Proposition 140 that abolished the legislature's pension system, it upheld the initiative's mandated 38% cut in the legislature's operating budget. Legislative leaders, including Assembly Speaker Willie Brown, had threatened to eliminate OAG and the Office of the Legislative Analyst if the budget cuts were upheld. Following the court's decision, however, Speaker Brown stated that the legislature will probably find a way to make the cuts without eliminating those offices. For example, the legislature may authorize OAG to bill state agencies for the costs of federally-required audits. Legislation on this issue is expected during 1992. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 49 and Vol. 11, No. 3 (Summer 1991) pp. 49–50 for background information.)

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 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:

Coordinating the Spending on Drug Prevention Programs (October 1991). In 1988, the Little Hoover Commission conducted a study on the coordination of a multitude of drug abuse prevention, intervention, treatment, and recovery programs existing at all levels of government, with a focus on coordination of their funding. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 34–35 for background information.) Following up on its 1988 study, the Commission held a public hearing in April 1991 and conducted interviews with state and local officials. On October 30, the Commission released its letter report summarizing its current findings.

In its report, the Commission concluded that California now has a viable master plan for addressing drug abuse, and has adequately coordinated its efforts in the fight to prevent drug abuse. According to the Commission, a great deal of coordination is effectuated through the development of the California Master Plan to Reduce Drug and Alcohol Abuse (Plan) by the Department of Alcohol and Drug Programs. The Plan provides the framework by which state and local agencies and community-based organizations may coordinate their efforts and streamline the delivery of services. However, the Commission concluded that total coordination will not be effective unless the programs being coordinated are successful and the resources are directed appropriately. Thus, the Commission found that the state must evaluate the success of the various programs and approaches, and determine how the effective ones may be replicated.

Second, the report noted that funding for drug abuse prevention should be further coordinated. Although the state has made efforts to coordinate and simplify some of the funding provided to the local level, further barriers to coordination exist on at least two levels: (1) special-interest legislation that sets up demonstration projects not covered in the Plan; and (2) federal funding that earmarks how money must be spent regardless of what is called for in the state's Plan.

Specifically, the Commission found that special-interest pilot projects which are not part of the Plan and do not arise from the community will not have any support once the state discontinues funding for the project. Thus, projects which are based on sound concepts could be unsuccessful in the long term because they are not part of the coordinated process encompassed in the state's Master Plan.

Restrictions placed on federal funds present another barrier to further coordination of funding. Federal funding earmarked for specific purposes results in a categorical system of funding and fails to recognize the inherently different needs of individual state and local governments. It also results in limited flexibility for those entities to fund their self-determined priorities.

The Commission made four recommendations for improving California's coordinated efforts to fight drug and alcohol abuse:

-The Governor and legislature should support the efforts that go into the development and execution of the Master Plan, and support the operations of the Governor's Policy Council on Drug and Alcohol Abuse and the Superintendent's Committee on Drug, Alcohol and Tobacco Education.

-The Department of Alcohol and Drug Programs should continue its endeavor to develop and conduct a bona fide study evaluating the state's efforts against drug and alcohol abuse. The Governor and legislature should support the study.

-The Governor and legislature should require that state funds be spent only on drug or alcohol programs or pilot projects that are components of the Master Plan.

-The Governor and legislature should aggressively lobby the federal government to remove or loosen existing restrictions that are required as a part of federal funding for reducing drug and alcohol abuse.

Elder Care at Home (November 1991). On November 6, the Commission released *Unsafe in Their Own Homes: State Programs Fail to Protect Elderly From Indignity, Abuse and Neglect*, its final report in a series of studies on the elderly in California. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 50–51 and Vol. 11, No. 2 (Spring 1991) p. 47 for summaries of the Commission's reports on residential care facilities and skilled nursing facilities.) According to the report, the vast array of services intended to provide a continuum of care for the elderly are not well-integrated and may be difficult to access since they are scattered throughout a variety of state departments. Further, because of changes in the way the state handles budgeting for elder care programs, the Commission is concerned about the prospects for maintaining or improving senior services in the future.

The Commission focused on the effectiveness of In-Home Supportive Services (IHSS), the largest state program involving in-home care for the elderly. IHSS pays various types of care providers to assist those eligible elderly recipients who can no longer live independently in their homes but who do not have complex enough problems to require institutionalization. IHSS eligibility is determined by a county social worker who evaluates an applicant's income, disabilities, and abilities. Following assessment, the social worker uses a formula to compute how much assistance is needed for specific daily activities; the recipient is then authorized a certain number of hours per month of care.

The Commission found that IHSS has inherent structural and funding limitations that prevent the program from working well. Elderly people are often subjected to poor quality of care stemming from low worker wages, lack of training, and inadequate training of

workers. The Commission cited the following key concerns with the IHSS program:

-Fragmentation of responsibility. According to the report, state government funds, sets standards for, and generally oversees the operation of IHSS; the counties administer the program, screening people for eligibility, providing ongoing assessments, and acting as case managers; and the recipient is responsible for employing and supervising the care providers. This fragmentation allows the state to deny responsibility for problems that occur when care providers are unreliable or abusive. In turn, counties may deny responsibility because the state neither provides sufficient funds nor requires counties to provide adequate oversight.

-The method of managing care. Ironically, in most IHSS cases it is the recipients—individuals who have been assessed and found to need assistance to get by with their daily living activities—who must manage the services they receive. The recipient is expected to recruit, interview, hire, supervise, train, and—if necessary—fire the workers who provide care to them. Unfortunately, this task is beyond the capabilities of some recipients and is a drain on energy and health for many others.

-The quality of care delivered. One of the major concerns expressed by IHSS recipients is that the quality of service is poor. Workers are neither trained nor educated to handle the needs of a geriatric population. The Commission found that those connected with the program believe most of the quality problems stem from the unattractive nature of the care provider jobs. The pay offered is low and benefits are nonexistent, leading to low incentive and high turnover. Individual care providers are paid $4.25 per hour. No criminal or background checks of potential workers are required or conducted. Finally, the quality of care is undermined by the lack of training programs or standards. Neither the state nor the counties will own up to being the "employer" of the providers for a variety of reasons—all of which work to the detriment of the dependent recipient. According to the Commission, "workers need know nothing more to become care providers than how to find their way to the recipient's house and how to fill out a time card."

-The differences in modes of delivering care. The two primary methods of delivering care to IHSS recipients are independent providers (IP) and contract care agencies. IP service appears to be cheaper and allows for greater personal choice and flexibility in who provides care. For example, the IP program allows a relative to be paid to provide care. However, the Commission notes that although many people provide care for family members, statewide statistics reflect that elder abuse is typically committed by family members rather than outsiders. Contract care agencies recruit, screen, train, and supervise workers, and are usually authorized for low-hour-need recipients who might otherwise have difficulty finding a willing care provider. The Commission concluded that the right of the elderly to choose who they want as a caregiver is meaningless if they can only find inadequate workers who are poorly screened, trained, and supervised. According to the Commission, contract care agencies hold greater promise for accountability and quality control.

The Commission also found that the state has failed to establish uniform mechanisms that would allow it to fully implement the goals of the California State Plan on Aging; thus, elderly in need of assistance are left to navigate a fragmented system of programs run by a diversity of state and county entities.

Finally, the Commission found that the effect of "county realignment" remains uncertain; while it may pose risks for the future of elder care programs, it also presents opportunities for improvements. As part of the plan to close the state's $14 billion budget gap in 1991–92, the legislature turned over certain health and social service programs, including IHSS, to counties, along with new sources of revenue. Because there is no certainty that the new revenue sources for counties will keep pace with program costs, counties in the future may suspend IHSS services for some recipients. On the positive side, the legislative realignment package directed that new approaches to long-term care for the elderly be studied.

The Commission's report concluded that the state should take immediate action to improve the IHSS program, move more aggressively to integrate the array of services offered to the elderly, and monitor closely the effects of realignment. The Commission offered the following recommendations:

-The Governor and legislature should enact legislation to require each county to adopt one of several approaches that will provide accountability, worker training, and reliability in the IP mode of care.

-The Governor and legislature should enact legislation to encourage counties to place new non-severely impaired, low-hour cases into the contract care mode of service.

-The Governor and legislature should enact legislation to institute other IHSS improvements and set standards that will allow the program to work more smoothly and responsively.

-The Secretary of the Health and Welfare Agency should move aggressively across departmental lines to implement the integration of services outlined in the California State Plan on Aging and, in the process, maximize federal funding of programs.

-The Governor and the legislature should closely monitor the effect of county realignment on IHSS and other programs that protect the frail elderly.

Conflict of Interest Code Amendments. At this writing, the Commission's proposed amendments to its conflict of interest code in Division 8, Title 2 of the California Code of Regulations, await review and approval by the Fair Political Practices Commission. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 50 for background information.)

Recent Hearing. On October 17, the Commission held its second public hearing on California's transportation system and needs. The Commission hoped to release a report in January.

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.

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 employees constitutes a violation of criminal law.

MAJOR PROJECTS:

DCA Administration Takes Hands-On Approach. Starting at the top with Director Jim Conran, the new DCA administration is actively and visibly participating in the business of the Department's constituent boards and bureaus. In a sharp departure from previous administrations, top DCA staff—