A STUDY OF

THE DEPARTMENT OF INDUSTRIAL RELATIONS

By

the

COMMISSION ON CALIFORNIA STATE GOVERNMENT

ORGANIZATION AND ECONOMY

December 1969

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STATE OF CALIFORNIA

RONALD REAGAN, Governor

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December 4, 1969

Honorable Ronald Reagan
Governor, State of California

Honorable Howard Way
President pro Tempore, and to Members of the Senate

Honorable Bob Monagan
Speaker, and to Members of the Assembly

Gentlemen:

This study, with the intent to propose a revised organization plan for the Department of Industrial Relations based on sound management principles, was suggested by the late Peter Weinberger, former Director of the Department and concurred in by Lucian Vandegrift, Assistant Secretary of the Human Relations Agency.

The effort was conducted under the general guidance of a subcommittee of the Commission consisting of Messrs. Howard Busby and Walter H. Lohman. Staff work was performed by Mr. John W. Berke, Management Analyst on loan to the Commission, under the overall coordination of the Commission's Executive Officer, L. H. Halcomb, Jr.

The analysis has taken into consideration the current mission of the department, the relationship of the department to the present top-level structure of California State Government, and related prior studies and recommendations on organization of state agencies, especially prior studies made by this Commission. The department's organizational structure and functions were reviewed from several standpoints:

- Historical development.
- Mission and purpose of each element.
- The relationship of the department and each of its elements to other agencies--federal, state, and local.

- The authorities that are vested in the Director, chiefs of divisions, and the several boards and commissions to conduct the functions of the department.

- The appointing authority for the positions of director, board and commission members, and chiefs of divisions.

- Reporting and administrative relationships among the Director, the Governor, the Secretary of Human Relations, division chiefs, and related boards and commissions.

- Functional relationships among divisions of the department.

The Commission finds that the separate statutory authorities given to the various boards, commissions and divisions within the department greatly weaken the authority of the Director. The Commission recommends that the Governor propose a plan of reorganization for the department that will consolidate its functions and authority to make the department more cohesive and responsive to public need. Details of these findings and recommendations on organization and related matters of policy and procedure are contained in the report that follows.

Respectfully,

D. W. Holmes, Chairman
State Senator Hugh M. Burns
Howard A. Busby
C. E. Dixon
Assemblyman Jack R. Fenton
Harold Furst
H. Herbert Jackson
James E. Kenney
Andrew Leavitt
Walter H. Lohman
*State Senator Milton Marks
Assemblyman Patrick D. McGee
Nathan Shapell

* Senator Marks has a number of reservations on this report and is specifically opposed to the removal of a portion of the Division of Labor Statistics and Research from San Francisco, as discussed in Exhibit B, page 29.

THE DEPARTMENT OF INDUSTRIAL RELATIONS

Background

The Department of Industrial Relations was created in 1927 to bring together several independent agencies operating in fields related to labor. The Bureau of Labor Statistics was the first of these independent agencies created. It was established in 1883 as a fact-finding agency to investigate conditions of and opportunities for employment in the State. Over the years the Bureau acquired responsibility for enforcement of various labor laws in addition to the compilation of labor statistics. Eventually the Bureau was split into three separate units. In 1911 the Industrial Accidents Board was established with enactment of a voluntary workmen's compensation law. Two years later, a compulsory workmen's compensation law was passed and, in 1914, the Industrial Accident Commission superseded the Industrial Accidents Board. In 1913, the Industrial Welfare Commission was established to administer a newly enacted minimum wage law for women and minors, and in the same year a Commission of Immigration and Housing was established. When the department was created in 1927, it consisted of the following divisions and commissions:

Divisions	Commissions
Division of Labor Statistics and Law Enforcement	
Division of State Employment Agencies	
Division of Industrial Accidents and Safety	Industrial Accident Commission
Division of Industrial Welfare	Industrial Welfare Commission
Division of Housing and Sanitation	Commission of Immigration and Housing

Each division or commission, however, retained substantially the same authority it had been given prior to creation of the department. The consolidation of formerly independent agencies into the department was incomplete and remains so today.

A major reorganization in 1945, while further subdividing certain functions and adding others, did little to change the independence of the divisions and commissions. The department can best be described as a conglomerate or confederation.

Present Organization

The department currently consists of eight statutory divisions for line operations and a non-statutory division for internal administrative management. In addition, there are two smaller offices--Self-Insurance Plans and the State Conciliation Service--which are attached to the Director's office. The organization chart, Exhibit A attached, shows the present structure.

The Labor Code provides that the head of each statutory division shall be appointed by the Governor. Six of the major components also have an associated board or commission appointed by the Governor. In total, there are 55 exempt appointees to share in the policy and management activities of the department. Fifty-four are appointed by someone other than the Director. Typically, authority for various programs has been vested by statute in a specific division or commission rather than in the department or the Director of Industrial Relations. The Director has no appointing authority for civil service personnel of four of the divisions. This parcelling of statutory authority to specific divisions, coupled with the Director's lack of authority to select division chiefs, greatly weakens his "directorship". The Director's control over the budget of each division which he exercises through his Division of Administration is virtually the only major unifying force available to him.

Viewed in broad perspective, the department has five principal functions:

- Collection and Dissemination of Labor Statistics.
- Enforcement of Labor Laws.

- Administration of Work Injury Programs.
- Mediation of Labor Disputes.
- Promotion of Training in the Skilled Trades.

These five functions as shown below are administered by 17 different units of the department, eleven divisions or offices, and six boards or commissions.

PRINCIPAL FUNCTIONS OF UNITS
WITHIN THE DEPARTMENT OF INDUSTRIAL RELATIONS

Principal Functions	Units Having Primary Role	Units Having Secondary or Support Role
Collection and Dissemination of Labor Statistics	Division of Labor Statistics and Research	---
Administration of Work Injury Programs	Division of Industrial Accidents Division of Industrial Safety Self-Insurance Plans Office State Compensation Insurance Fund Workmen's Compensation Appeals Board Industrial Safety Board	Division of Labor Statistics and Research Division of Labor Law Enforcement
Enforcement of Labor Laws	Division of Fair Employment Practices Division of Labor Law Enforcement Division of Industrial Welfare Fair Employment Practices Commission Industrial Welfare Commission	Division of Industrial Safety Division of Apprenticeship Standards Division of Labor Statistics and Research Division of Industrial Accidents Workmen's Compensation Appeals Board Self-Insurance Plans Office Industrial Safety Board Apprenticeship Council
Mediation of Labor Disputes	State Conciliation Service	Division of Labor Statistics and Research
Promotion of Training in the Skilled Trades	Division of Apprenticeship Standards	Division of Labor Statistics and Research

The least complex organizational relations exist in three of the primary functions, statistics, mediation, and apprenticeship, and for these the Director's responsibility and authority is quite clear. His directorship is substantially weaker and more diffused in the work injury and enforcement functions. Yet these are the functions which involve the most important questions of public policy, which cost the most, and which require the most coordination. The Governor, the Legislature, and the public would be better served if the several divisions were more responsible and responsive to a Director who can represent the department's broader concern. The Director should be vested with a policy and coordination role, not just 'housekeeping' authority.

Recommendations

The Commission proposes that the Governor prepare and transmit to the Legislature a reorganization plan for the Department of Industrial Relations that will provide the department and the Director with sufficient authority to implement executive and legislative policy in administering the work of the department. The plan should include provisions for overall structure of the department as follows:*

- The department and the Director shall succeed to the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the several divisions comprising the department, with the exception of the State Compensation Insurance Fund.
- The Director shall appoint all civil service employees of the department except employees of the State Compensation Insurance Fund.
- Division chiefs appointed by the Governor shall serve at the pleasure of the Director.

* The Legislature provided for a similar structure for the Department of Commerce. See Chap. 1161, Statutes of 1969.

COLLECTION AND DISSEMINATION OF LABOR STATISTICS

Division of Labor Statistics and Research

The California Bureau of Labor Statistics was the first industrial relations function established in this state. It was created as a fact-finding agency in 1883 just prior to creation of the Federal Bureau of Labor Statistics. The excellence of the work of this unit has received national recognition. The data which it collects, compiles and presents are of value to labor, management, and government alike. To function properly the division, which does not establish or propose policy, must be strictly neutral and non-political in the performance of established duties. Prior to the present appointment, the division chief position had civil service status.

The division determines how many Californians are in the labor force, how much they are paid, and where they work. It also compiles data on job-connected injuries, provisions of collective bargaining agreements, union membership, building trades union wage rates, work stoppage statistics and cost of living. It makes a variety of special studies and reports and provides supporting services to all other divisions of the department.

Organizationally, the division consists of four sections:

	No. of Positions
- Employment and Payroll Statistics	38
- Work Injury Statistics	19
- Industrial Relations Research	11
- Special Studies and Administrative Statistics	4
Management and Clerical	12
Total	84

The Employment and Payroll Statistics Section carries out a program called "Current Employment Statistics" for the Federal Bureau of Labor Statistics.

The Federal Bureau of Labor Statistics has had an agreement with the department to share in the cost of this operation since 1926. The current Agreement provides that the Bureau of Labor Statistics furnish three federal employees to the section and pay the salary costs for nine state employees. B.L.S. also provides forms, envelopes, and franking privileges. Under this Agreement, the Federal Government is paying about 20% of the cost of this section's program.

In most states a similar program is carried out by that state's employment security agency. In those states, the entire cost is borne by the Federal Government with half of the salary costs paid by the Bureau of Labor Statistics, and the remaining half of the salary costs plus operating expenses and overhead paid for by the Federal Manpower Administration. The question of greater federal participation has been raised numerous times by the Legislative Analyst, the Department of Finance, and others. Apparently it was assumed that additional federal support required the transfer of this function to the State's employment security agency, the Department of Human Resources Development (formerly the Department of Employment) and that the section would have to be moved from its present base in San Francisco to Sacramento.

Each time the additional federal funding question was discussed, confusion resulted and fears were raised that the program would suffer. It has been generally believed that, since only 12 positions were supported by Bureau of Labor Statistics funding, the maximum support attainable was for 24 positions (one-half by the Bureau of Labor Statistics and one-half by the Manpower Administration) out of the 38 in this section. There also has been concern that moving the function physically from San Francisco to Sacramento would result in the loss of key experienced personnel. In this

study, a different approach was taken--one which ignored earlier presumptions. Both the Federal Manpower Administration and the Bureau of Labor Statistics were asked:

> " - Does the section perform any functions that you cannot pay for and, if so, what are they?"
>
> " - Does the function have to be transferred to the State's employment security agency to become eligible for additional federal support?"

The two federal bureaus readily agreed to make a joint review. Their responses (see copies of letters attached, Exhibits B and C) indicate that there is no duplication of service and that all activities are within guidelines established by the U. S. Department of Labor. They state, therefore, that the entire section (38 positions) is eligible for full federal funding. They also indicate that the operations do not have to be moved immediately to Sacramento to be eligible for such funding.

The program cost for this section for fiscal year 1968-69 was $560,160, with $115,664 received from the Bureau of Labor Statistics. As shown in Exhibit B, the State's General Fund can save nearly one-half million dollars annually through federal funding of this section.

Recommendations:

1. A new contractual arrangement be negotiated promptly with the Federal Government calling for full federal funding of the Employment and Payroll Statistics operations. Such federal funding should also be made applicable to the current fiscal year if possible.
2. A schedule be developed for integration of the employment statistics operations within the Human Relations Agency.
3. Civil service status be restored to the position of Chief, Division of Labor Statistics and Research.

ENFORCEMENT OF LABOR LAWS

One of the five major functions of the department is enforcement of a wide variety of labor laws. This function is performed by all its divisions to some degree but is the primary function for three divisions and two associated commissions. The Fair Employment Practices Division (and Commission) are discussed separately below. The other two divisions concerned are the Division of Labor Law Enforcement and the Division of Industrial Welfare, with its associated Industrial Welfare Commission. Recommendations have been made over the past several years to combine Labor Law Enforcement and Industrial Welfare because of the obvious similarity in function.

Division of Labor Law Enforcement

The labor law enforcement functions of this department began as an outgrowth of the fact-finding activities of a Bureau of Labor Statistics established in 1883. Its investigations into employment conditions led to enactment of laws to correct the bad conditions found. When the Department of Industrial Relations was formed, the dual role of fact-finding and enforcement was performed by its Division of Labor Statistics and Law Enforcement. In the 1945 reorganization of the department these functions were segregated into a Division of Labor Statistics and Research and a Division of Labor Law Enforcement.

The Chief of the Division of Labor Law Enforcement also has the statutory title "Labor Commissioner" which bears the connotation of broader powers than those of a division chief. Nationwide the title Labor Commissioner is often used to mean someone who is the counterpart of the Director of Industrial Relations in California. Those who do business in several states are apt to contact the Labor Commissioner rather than the Director when they want to

know what labor laws or rules apply to them. Use of the title Labor Commissioner for one of the division chiefs has led to confusion.

The division has offices throughout the state, each under the jurisdiction of a deputy labor commissioner, to hear and settle cases of alleged labor law violation. Wage claims generate 60% of a deputy labor commissioner's work, general labor laws 30%, public works 5%, and licensing 5%. The division has enforcement powers for nearly 200 labor laws, many of which are closely related to responsibilities of other divisions of the department. There has been some shift in emphasis of role recently, away from being a passive law enforcement agency toward education of employers to prevent violations.

Division of Industrial Welfare - Industrial Welfare Commission

The Industrial Welfare Commission was established in 1913 to administer the newly enacted minimum wage law for women and minors. This was 14 years before the department was formed. The Commission was given and still retains the quasi-legislative function of issuing orders that have the effect of law relating to minimum pay, maximum hours, and standards for working conditions. These orders, which were intended to protect women and minors from exploitation, are enforced by the Division of Industrial Welfare. Recently, however, it has been found that some of these provisions may themselves be discriminatory and the application of separate standards based on sex has come under close scrutiny in recent court cases. The Legislature is currently reviewing the role of the Industrial Welfare Commission and Division. In announcing hearings by the Assembly Committee on Labor Relations, Walter W. Powers, Chairman of the committee, said:

> "This is perhaps the most important hearing which this committee has held in several years. More than one-third of California's work force may be deprived by the courts of their historic legal protections in the next few months.

"Since 1913, California has provided special legal protection in the employment relationship for working women. For more than 50 years, women in this state have enjoyed a minimum wage, an hours limitation and a number of required working conditions.

"Then in 1964 Congress passed the Civil Rights Act which prohibits discrimination in employment because of sex, among other things.

"Several recent court cases have made it highly probable that Congress' prohibition against discrimination in employment because of sex will apply to state laws which protect one sex in the employment relationship, but not the other."

As their programs developed, both divisions, Industrial Welfare and Labor Law Enforcement, became concerned with both wages and working conditions for both men and women. The distinctions between them are technical, detailed and confusing. The two divisions differ more in operating practices than they do in purpose. In their relationship to employers when handling employee complaints, Industrial Welfare is inclined toward a conciliatory approach whereas Labor Law Enforcement is inclined toward a hard-line approach. Each time consolidation has been considered in the past, their differences have been stressed to justify having separate divisions. It appears to this Commission that these differences are no longer valid. It would seem more appropriate for the department to attempt to minimize these differences. Such distinctions as may be essential could be provided for within a single division.

Recommendations:

1. The functions of the Division of Labor Law Enforcement and the Division of Industrial Welfare be merged and placed in a single new division of employment standards.
2. The title of Labor Commissioner be abolished.

Division of Fair Employment Practices - Fair Employment Practice Commission

The Fair Employment Practice Commission and the Division of Fair Employment Practices were created within the Department of Industrial Relations with passage of the 1959 Fair Employment Practices Act. Jurisdiction of the commission and division was expanded in 1963 to deal with discrimination in housing when the California Fair Housing Act became law. The Commission consists of seven part-time members appointed by the Governor. It is at once a policy-making, rule-making, and administrative body with most of the statutory power of a department head.

Commission members and division staff spend about two-thirds of their time on matters of alleged discrimination in employment and about one-third in housing. In both areas the Commission has a dual role: law enforcement and affirmative action.

In its role as a law enforcement agency, the Commission:

- Receives complaints of discrimination (either in employment or housing).
- Makes investigations.
- Attempts "closed door" conciliation.
- Holds public hearings and serves an order upon the respondent, if necessary.

Under Section 1421 of the Fair Employment Practices Act, the Commission may also investigate employment practices when there is evidence of a probable violation even though no individual complaint is filed. In such cases, however, the Commission may conciliate only and may not employ public hearings or enforcement proceedings.

In its role as an affirmative action agency, the Commission counsels employers, or those dealing with housing, in methods of applying equal standards and fair practices. It is generally believed by the Commission and its staff that the handling of individual complaints helps to discover problems but that affirmative action programs are more likely to lead to significant broad-scale elimination of discrimination. The Commission's role in affirmative action was formally approved by legislative change in 1967. Affirmative action describes the activities in which the F.E.P.C. goes beyond the allegations of an individual complaint to encourage respondents to undertake positive programs such as recruiting employees by advertising in minority news media. Affirmative action programs, unlike the other compliance activities, do not presume any violation of the law. Affirmative action programs are generally initiated when (1) an employer controls a large number of jobs; (2) opportunity for widespread employment arises as in new plant openings or old plant expansion; or (3) a situation is found in which the percentage, or distribution, of minority employees is grossly deficient. Four of the 54 staff members in the division are identified as dealing primarily with affirmative action. The other staff members are primarily handling individual complaints.

When complaints are received, an individual commissioner and staff consultant are assigned to each case. With increased workload, it has been found necessary for the assigned commissioner to rely increasingly on the recommendations of the assigned consultant and his recommendations in an individual case are seldom rejected by the commissioner. The commissioners have found the demands upon them increasing with the addition of responsibility

for fair housing. There is often a greater pressure of time to resolve a problem in housing than there is to resolve a problem in employment. Problems in obtaining jobs or promotions can often be solved weeks after discrimination has been alleged, but prompt action is normally required to capture an opportunity to obtain housing before it is leased or sold to someone else. Because the activity of handling individual cases in employment and housing is so time-consuming for part-time commission members, serious consideration has been given to the need for full-time members. It is felt, however, that it would not be possible to obtain members on a full-time basis who would have the same background and standing in their community, and it would be better to make other changes to handle the increased workload.

The practice of having individual commissioners handle assigned cases also creates a potential for inconsistency in treatment of cases. The Chief Counsel in the division has been delegated review powers by the commission chairman to help avoid inconsistency. This delegation to the Chief Counsel contributes to the problem caused by the Commission functioning as an administrative body. Another aspect of the problem is that most of the contact between the commission and its staff is on the basis of an individual commissioner and staff member working on a specific assigned complaint. The chief of the division is a chief in name only. The commission appoints the personnel of the division and has delegated to area supervisors the responsibility for assignment of cases, thus bypassing the chief.

Recommendations:

1. Continue the Fair Employment Practice Commission as a part-time Commission, but limit it to a policy-making and rule-making body rather than an administrative body.*

* For an analysis on the recommended role of plural bodies in the California State Service, see this Commission's report on "The Use of Boards and Commissions in the Resources Agency", April, 1965.

2. Place responsibility with the division chief, under policies and rules established by the Commission, for the receipt, investigation, and conciliation of complaints. Limit commission action to holding public hearings and serving an order upon respondent when necessary.
3. Eliminate the requirement that every complaint be investigated and provide discretion to the division chief to determine the degree of investigation required to determine if a complaint has merit.
4. Shift the emphasis in assignment of division staff away from individual complaints and toward affirmative action.

WORK INJURY PROGRAMS

Work injury programs can be described as having four objectives:

- Provide incentives to induce optimal employer expenditures on safety and accident prevention.
- Provide for income maintenance including adequate medical care.
- Allocate the costs of disabilities to the source of injury.
- Provide incentives for rehabilitating the disabled so they can continue to participate in the labor force.

In the broadest and simplest terms, these objectives can be met by two kinds of programs: prevention and compensation. The term workmen's compensation is often used to include both prevention and compensation even though, strictly speaking, providing compensation to injured workers does not include injury prevention.

The major costs of these work injury programs are borne by employers who in turn pass the cost on to those who buy their products or services. Thus, whether one buys a home, or a meal, or a suit, part of its price is the cost to the producer to protect and insure his workmen against injury. It has been public policy of this state since 1911 to assure through its Department of Industrial Relations that all employers have adequate programs of prevention and compensation. Eight different units of the Department of Industrial Relations are involved in these programs. Reports and statistics concerning work injuries are gathered and disseminated by the Division of Labor Statistics and Research; safety orders are promulgated by the Industrial Safety Board and enforced by the Division of Industrial Safety; the mandatory insurance provisions of the law are enforced by the Division of Labor Law Enforcement; availability of insurance at a reasonable cost is

assured by the State Compensation Insurance Fund; certificates of permission to self-insure are granted by the Director with assistance from the Self-Insurance Plans office; and disputes between injured workers and insurance carriers or self-insured employers are adjusted through the Division of Industrial Accidents and the Workmen's Compensation Appeals Board.

Division of Industrial Safety - Industrial Safety Board

Prevention, which is the identification and elimination of the causes of injury, is the major role for the Division of Industrial Safety and its associated Industrial Safety Board. This division works with the Division of Labor Statistics and Research to determine how many accidents of what kind are occurring where, and for what reasons. The Division of Industrial Safety staff then shows employers what they must do to prevent accidents and provide a safe working environment. They perform this service through engineering, education, and enforcement.

Although the division is primarily concerned with the safety of employees, its work also affects the safety of the public since both employees and the public may utilize common facilities as, for example, the elevators which are inspected by the division. There is also a very close relationship between the safety of an employee's work station and such matters as the hazards of atomic radiation, transportation of inflammable materials, inadequate ventilation, etc. Therefore, the division cooperates with numerous federal, state, local, and private agencies to exchange information and coordinate programs. However, there appears to be less than adequate coordination, joint planning, and use of information within the department, with those divisions that deal with work injury compensation. Giving the director broad authority and responsibility for all functions of the department as recommended herein will provide the framework for improvement. Substantial

economies can be achieved by the prevention of work injuries in lieu of placing primary interest on the compensation of those injured.

Recommendations:

1. Develop an information system to utilize the vast amount of information on compensation claims available, especially within the State Compensation Insurance Fund, the Division of Industrial Accidents, and the Workmen's Compensation Appeals Board to help the Division of Industrial Safety plan and orient the emphasis of its programs to areas of greatest loss.
2. Provide the department with statutory authority to determine frequency of inspection required to optimize its use of resources in relation to potential hazards.
3. Provide the department with statutory authority to set fees for inspection to cover costs. This will allocate the actual costs of the inspection service to source.

Self-Insurance Plans

Under the California workmen's compensation law every employer, except the State and its political subdivisions, is required either to obtain insurance or to self-insure. For an employer to self-insure his workmen's compensation liability he must obtain from the Director of Industrial Relations a certificate of consent to self insure. Self-insured employers tend to be large employers with stable employment patterns and high average weekly wages--usually utilities and large manufacturing concerns, major producers of steel, oil, automobiles and lumber, and chain retailers. The self-insurer is required to submit financial documents and provide a deposit of surety bond or securities. The Manager of Self Insurance with a small staff aids the Director in handling applications for consent to self-insure. This staff also audits the workmen's

compensation plans of self-insurers and provides an educational service to raise the standard of quality of administration.

The privilege of self-insurance is of considerable economic value to self-insured employers. A reasonable estimate of the savings to self-insurers is $40 million annually. The cost of this licensing program, about $150,000 annually, is paid for from general fund revenues rather than from license fees as is the case in most state licensing programs. The option to self-insure is selected by employers only when it is to their advantage; that is, when it is less costly than buying insurance. The General Fund bears the overhead costs of providing this option which benefits only a relatively small number of employers (about 400) when all other employers (about 330,000) bear the full cost of compensation insurance through payment of an insurance premium. If the cost of this licensing program were distributed among 400 self-insured employers, the average annual fee would be only $375.00.

Recommendations:

1. The cost of supervision of self-insurance be borne by the self-insurers through a payment of license fees established in broad ranges based on the size of the self-insurer.
2. The scope of the current supervisory program not be expanded beyond its present level of audit once every three years.
3. Consideration be given to reducing the requirement for surety bonding from 125% to 100% of loss reserves. The Commission questions granting, or continuing, consent to self insure for any firm that might have such marginal financial capability as to be required to be bonded for more than 100% of loss reserves.

State Compensation Insurance Fund

When the Legislature in 1913 enacted a compulsory Workmen's Compensation Law, it also decided to assure availability of workmen's compensation insurance to all California employers and to provide a criterion for fair treatment of injured employees. This was accomplished by establishing the State Compensation Insurance Fund which must offer insurance to any applicant except one in violation of a safety order of the State or who presents risks beyond the safe carrying capacity of the Fund. The orderly development of the Fund's capability to insure all applicants has meant that it has never had to turn anyone away. The Fund operates in competition with private insurance firms and in nearly all respects is like a private mutual insurer. No state funds are used for its support; its support is provided exclusively from insurance premiums. It is also a taxpayer since it pays an insurance premium tax just as does a private insurance company.

The Fund is administered by a board of directors composed of the Director of the Department of Industrial Relations as ex officio chairman and four policy-holder members appointed by the Governor who serve staggered terms of four years. The board selects a general manager; all other employees of the Fund are subject to civil service. Its operations are audited by the Legislature, the Department of Finance, and the Insurance Commissioner. Although the Fund is by law within the department, it operates as an independent entity and receives no direction or support from the department. No change in this organizational independence is recommended.

Division of Industrial Accidents - Workmen's Compensation Appeals Board

A basic concept in workmen's compensation is that the employee who is injured would obtain compensation from his employer or the employer's insurer irrespective of fault. If his employer did not provide prompt and proper

compensation, he would have the opportunity to seek redress through an informal and inexpensive procedure administered by a judicial body. In California, the Industrial Accidents Commission was created to handle such litigated cases. The commission formerly operated as two panels, one in San Francisco and one in Los Angeles, and over a period of time substantial differences in their decisions made this bifurcated arrangement unworkable. The chairman of the commission was expected to handle all administrative matters and the combination of administrative and judicial matters became too burdensome.

To find ways to correct these defects, the Workmen's Compensation Study Commission was established by the Legislature in 1963 with the following purpose:

> " it is the purpose of the Legislature, in enacting this division, to authorize a study of the system to ascertain whether it is presently fully serving its original constitutional purpose and whether it may, in view of conditions which may be anticipated in this State, be expected to serve that purpose in the future; or whether, on the other hand, it has become so uncertain, discriminatory, expensive, and full of decay that it no longer effectively serves that purpose."
>
> * * *
>
> " The Commission shall conduct a study of, and make suggestions regarding, the workmen's compensation system as set forth in Division 4 (commencing with Section 3201) and Division 4.5 (commencing with Section 6100) of the Labor Code to determine whether the system most effectively contributes to the original, fundamental purposes of the workmen's compensation laws, including relief from the consequences of injury; prompt, certain, and nonlitigious determination of rights under the law; and the rehabilitation and restoration of injured workers to gainful employment."

Following the work of the Workmen's Compensation Study Commission, the Legislature in 1965 abolished the Industrial Accidents Commission and created the Division of Industrial Accidents and the Workmen's Compensation Appeals

Board. The division is headed by an administrative director appointed by and serving at the pleasure of the Governor, at a salary comparable to that of a Superior Court Justice. The Appeals Board consists of seven members appointed by the Governor, one of whom he designates as chairman.

There was an intent in the 1965 reorganization to make a clear separation of administrative and judicial functions, placing the administrative functions under the administrative director and judicial functions under the board. The separation is not, however, very clear. As their organization chart shows (Exhibit E), there are two lines of command to all the employees in the division: one marked "administrative" stemming from the Administrative Director; the other marked "judicial" stemming from the board Chairman. A further indication that the distinction between administrative and judicial matters is not clear appears in a memorandum issued to presiding referees December 10, 1968. The first paragraph of that memorandum, which was signed jointly by the Chairman and the Administrative Director, reads as follows:

> "The Presiding Referee will, under general direction of the Administrative Director of the Division of Industrial Accidents and the Chairman of the Workmen's Compensation Appeals Board, plan, organize and direct the work of the Division and the Board. He is responsible for carrying out the program, policies and procedures of the Division of Industrial Accidents and Workmen's Compensation Appeals Board throughout his assigned area of responsibility."

In 1956, 15% of the disabling work injury cases were litigated, i.e., became new filings with the Industrial Accidents Commission. By 1963 the cases litigated had increased to 27%. Since the 1965 reorganization, there has been a concerted effort by the Appeals Board to reduce litigation and these efforts have stabilized the percentage of cases litigated in the range of about 27% to 28½%.

As was stated above, the intent is that the employer or his insurer compensate the injured employee properly and promptly. It seems reasonable, then, that only in the absence of such compensation would the employee have to seek redress. A practice has grown, however, for an employee to file an action with the appeals board immediately after being injured, in some cases even before the employer knows about the injury. The practice is apparently encouraged by some who specialize in representing employees in compensation cases. Many of these litigated cases would not have to involve litigation at all if the employer were first given an opportunity to act. The employee should be required to given the employer or his insurer notice of claim for injury prior to filing with the Appeals Board.

Recommendations:

1. Provide by statute that the Workmen's Compensation Appeals Board may establish conditions precedent to filing of an application with the Board wherein the employee would be required under certain circumstances to give the employer or his insurer notice of claim for injury prior to filing with the Appeals Board.
2. Provide that all instructions to division staff be issued by the Administrative Director, including instructions developed by the board Chairman or, in cases where this cannot be done, segregate instructions so that administrative instructions are issued by the Administrative Director and judicial instructions are issued by the Chairman.

MEDIATION OF LABOR DISPUTES

State Conciliation Service

The State Conciliation Service is an office that was administratively created in 1947 to assist the Director in carrying out the department's responsibilities for providing assistance in settling labor disputes and to promote sound union-employer relations. The Labor Code places responsibility and authority for this function in the department rather than in a specific division. This office relies on the Division of Labor Statistics and Research for comprehensive data on the provisions of collective bargaining agreements. All employees of the office are appointed by the Director and all are civil service employees.

No change in this organizational arrangement is recommended.

PROMOTION OF TRAINING IN THE SKILLED TRADES

Division of Apprenticeship Standards - Apprenticeship Council

An apprenticeship division and council were formally established in the Department of Industrial Relations as a part of the major reorganization of 1945 to foster and promote training in the skilled trades. The division chief was named secretary to the Apprenticeship Council which is composed of 14 members appointed by the Governor, six representatives each from employer and labor organizations, and two from the general public. The Director of Industrial Relations and the Chief of the Bureau of Industrial Education, Department of Education, are ex officio members. The Apprenticeship Council formulates policies; establishes uniform procedures for selection of apprentices; sets standards for minimum wages, maximum hours, and working conditions.

The apprenticeship system is based on voluntary participation of both labor and management. The principal costs are borne by employers in the form of wages for apprentices. There are now in California approximately 20,000 apprentices, which represent a smaller percentage of the total employment in crafts and trades than existed several years ago. The objective of apprenticeship was stated in the Apprenticeship Handbook for Educators, California State Department of Education, as follows:

> "...to train efficiently, to the degree of competence ordinarily expected of journeymen, the proper number of youths to meet the needs of industry for workers in skilled occupations."

This statement of the objective has two aspects: the quality and kind of competencies expected of the graduating apprentice; and the number of apprentices that should be trained.

The fact that the apprenticeship program fails to grow at least at the same pace as the total skilled work force casts doubt on the validity of the

present apprenticeship system and its ability to meet current needs. Certainly a large proportion of those employed in trades and crafts no longer obtain their jobs or job skills through apprenticeship training. These doubts were vividly expressed in a series of questions raised by a keynote speaker at the California Conference on Apprenticeship in San Francisco, May, 1968, when he said in part:

> "...the time has come for some irreverence, for clear vision and plain talk; and I want to raise some hard questions about the present state and future outlook of apprenticeship training and offer some thoughts as to possible answers to those questions...
>
> 'How are we doing after almost 30 years?
>
> 'Are we allowing ourselves to be hemmed in by artificial, tradition-bound limitations?
>
> 'Should we continue to base our entire manpower training system on the principle of bringing in only the young and making job training a once-in-a-lifetime thing?
>
> 'Do we resist shorter apprenticeship periods because we need the longer period of training to validate our wage structures?
>
> 'To what extent are we being guided by myths that may no longer be true?
>
> 'How much of our work is really being done by so-called 'all around men'?' "

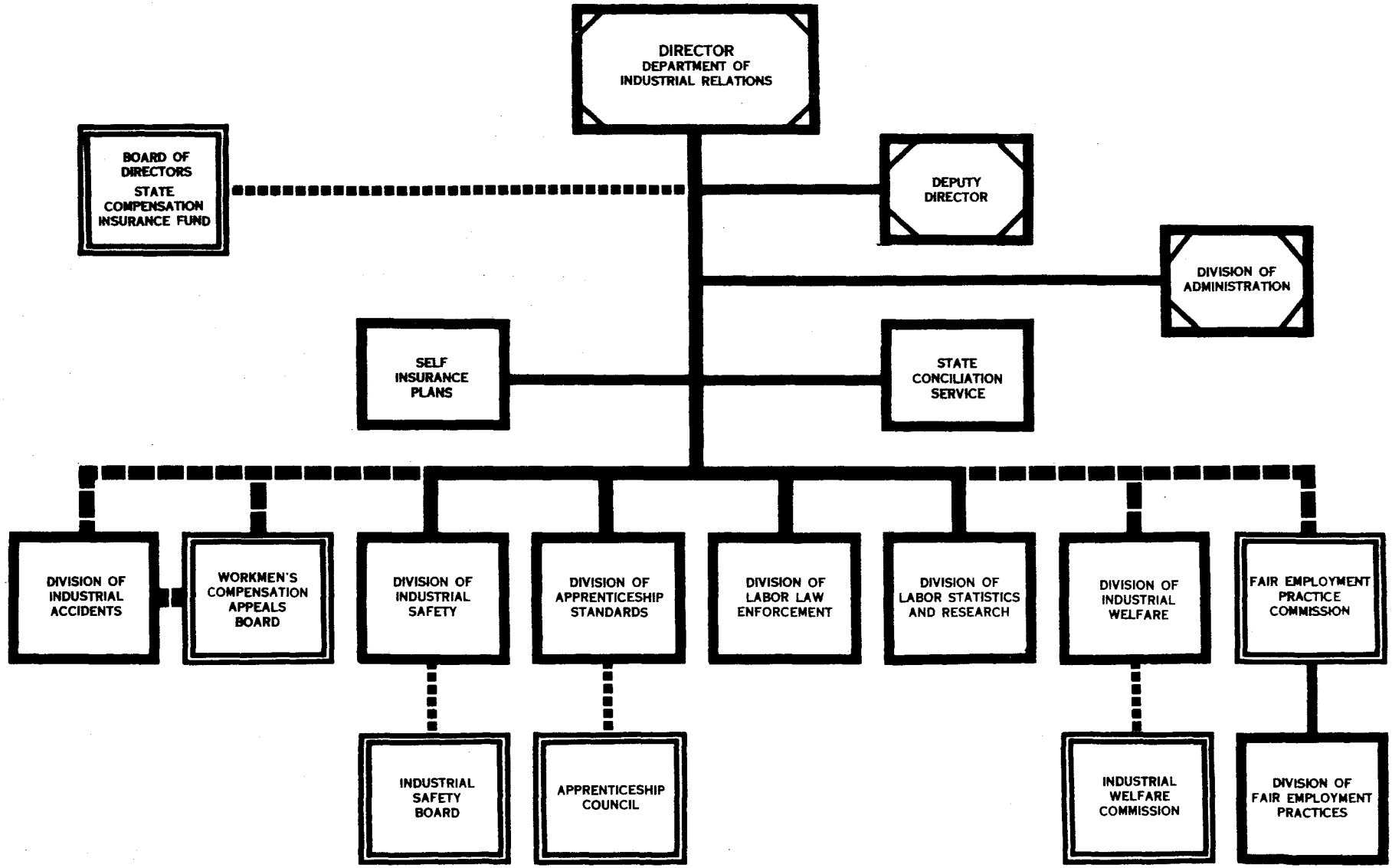
These questions clearly indicate the need for a comprehensive review of apprenticeship programs and to redefine public policy in regard to the State's role. These questions, together with the need for closer ties between apprenticeship and other vocational education programs, should also be explored.

Recommendation:

The Legislature conduct a comprehensive review of the State's policy and role in apprenticeship programs.

ORGANIZATION CHART

As of November 10, 1969



STATUTORY OR EXEMPT POSITION

INDICATES ADVISORY OR COOPERATIVE RELATIONSHIP

APPOINTED BOARD OR COMMISSION

EXHIBIT A

EXHIBIT B

U. S. DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION
WESTERN REGION

450 GOLDEN GATE AVENUE, BOX 36017
SAN FRANCISCO, CALIFORNIA 94102

November 4, 1969

Mr. John W. Berke
Commission on California State Government
Organization and Economy
11th and L Building, Suite 550
Sacramento, California 95814

Dear Mr. Burke:

As mentioned in Mr. Roumasset's letter of October 13, 1969, we forwarded our recommendations to our Washington Office with respect to Federal funding of the Current Employment Statistics program in California. Our recommendations were as follows:

1) That the Manpower Administration provide funds for the Current Employment Statistics program on a matching basis with the Bureau of Labor Statistics.

2) That the Bureau of Labor Statistics reexamine its contributions to this program with a view to increasing its support.

3) That the next Current Employment Statistics contract be negotiated with the California Department of Employment.

4) That no reduction in the total number of Current Employment Statistics positions be made at this time.

5) That the Current Employment Statistics program be retained in San Francisco until a timetable can be set up for its removal to Sacramento and its integration in the Statewide statistical programs operated by the California Department of Employment.

We stress that the above recommendations represent the views of this office only--they do not, at this time, represent the views of the Department of Labor. The report containing our recommendations is being studied by the National staffs of the Manpower Administration and the Bureau of Labor Statistics. We will, of course, inform you as soon as possible as to the outcome of this review.

Sincerely yours,

Gerald Parrish
Deputy Regional Manpower Administrator

EXHIBIT C

U.S. DEPARTMENT OF LABOR

BUREAU OF LABOR STATISTICS

450 GOLDEN GATE AVENUE - BOX 36017

SAN FRANCISCO, CALIFORNIA 94102

OFFICE OF
THE REGIONAL DIRECTOR

October 13, 1969

Mr. John W. Berke
Commission on California State Government
Organization and Economy
11th and L Building, Suite 550
Sacramento, California 95814

Dear Mr. Berke:

As requested, staff of the regional offices of the Bureau of Labor Statistics and the Manpower Administration have made a preliminary review of the current employment statistics program of the California Department of Industrial Relations. The program is conducted in cooperation with the Bureau of Labor Statistics and the latest review confirms the findings of an in-depth technical review conducted by that agency during the summer of 1968. A copy of this review is attached, and is summarized in the following paragraph.

Current Employment Statistics Program,
California Department of Industrial Relations

The California current employment statistics program provides monthly data on nonfarm wage and salary employment, hours worked, and weekly and hourly earnings of production and related workers by industry for the State of California, 14 standard metropolitan statistical areas, and two nonmetropolitan areas. Estimates of the number of production workers and number of women workers are also published for selected industries in the State and areas, and, in addition, the program provides historical summaries of the above data, seasonally adjusted employment and hours worked series for a large number of industries, civilian work force series, and labor force projections. The basic data are obtained from a sample of approximately 16,000 reporting establishments throughout California and provide the most comprehensive body of current and historical data available from any source concerning the levels and trends of employment, hours, and earnings in California and its major metropolitan areas. A total of 844 employment series and 959 series on hours and earnings are published each month. The data are collected, compiled, analyzed, and published by the Employment and Payroll Statistics

Section, Division of Labor Statistics and Research, California Department of Industrial Relations in cooperation with the Bureau of Labor Statistics, U. S. Department of Labor. With the exception of the civilian work force estimates and projections, the procedures used to gather the data and to make the current estimates are prescribed by the Bureau of Labor Statistics. The Bureau's quality standards are insured through continuous liaison between regional office staff of the Bureau and staff of the Division of Labor Statistics and Research, and review of the State series by Bureau staff. These procedures not only insure a technically sound program for the State of California but assure that California's estimates are completely comparable to those prepared by the Bureau's national office for the U.S. and estimates prepared by other State agencies for other parts of the country. The system also is designed to minimize the reporting burden on respondents--the data collected on each schedule are used in the preparation of area, State, and national estimates. The Bureau supplies procedural manuals, necessary forms for the conduct of the program, and the Federal Government's franking privilege.

The Bureau of Labor Statistics has a cooperative employment statistics program in every State in the union plus the District of Columbia. In most cases these programs are operated in cooperation with the Manpower Administration, U. S. Department of Labor and the appropriate State Employment Security Agency, with funding provided jointly by the Bureau of Labor Statistics and the Manpower Administration. In the case of California the arrangement is different as no funding is provided by the Manpower Administration. Thirty-eight positions are currently used in the California program, of which 13 are either directly or indirectly financed by the Bureau of Labor Statistics (the Bureau currently has three of its own employees working in the Employment and Payroll Statistics Section). The remaining 25 positions are financed directly from the general fund of the State of California.

In terms of resources utilized and amount of data processed and published, the California program is one of the largest in the country, and in the opinion of the Bureau is certainly one of the best. Based on the 1968 and more recent reviews, the Bureau concludes that the California program is of very high technical quality in every respect. The employment estimates are exceptionally reliable, conform to BLS approved procedures, are carefully reviewed and evaluated prior to publication, and are of sufficient geographic and industry detail to meet most of the needs of the Bureau, other governmental agencies, the business community, research and planning groups, labor organizations, and other major users. The employment, hours, and earnings series are undoubtedly the most widely used set of statistics supplied by a California Government agency and we are, of course, concerned that they are promptly and widely disseminated. In this respect, the California Division of Labor Statistics and Research does an outstanding job of servicing the public. The demand for State and area data is expanding at an exponential rate and the Bureau has, over the years, encouraged all cooperating agencies in the current employment

statistics program to increase the geographic and industry coverage of the data. California has fully cooperated in this endeavor and many of the recommendations contained in the 1968 review of the California program have been carried out. The attached memorandum from Mr. Leo G. Connolly to me lists the steps which have been completed.

Recommendations

The Department recommends that the program continue at the current level, both in terms of resources used and statistical series produced. The California program as now constituted is an integral part of the cooperative employment statistics activities, and as time goes on it should be expanded, as resources permit, in coverage and detail to meet the growing need for local data.

The Bureau of Labor Statistics' funding for the program amounts to $57,732 per annum in monies plus three Federal positions at a combined annual salary of $24,528. In addition, the Bureau provides printing and postage services valued at $33,404. This does not by any means constitute one-half of the total program cost. Although the Bureau is subject to Congressional decision concerning the amount of funds which can be allocated to this program, it is committed in principle to providing at least one-half of the personnel costs of the cooperative program. Our recommendation is that the Bureau obtain the additional funding to achieve this level of support. The only conditions which the Bureau requires in a cooperative employment statistics program are that the contracting agency be technically competent, agree to adhere to the procedures and methodologies established by the Bureau, and cooperate with regional office staff in achieving a reliable, objective, timely, and relevant output. These must be satisfied before the Bureau will give its stamp of approval to the published data.

The Manpower Administration is also investigating the possibility of providing financial support to the program. Their recommendations are being cleared through the national office and will be forthcoming shortly.

Sincerely yours,

Charles Roumasset

CHARLES ROUMASSET
Chairman, Regional Staff Committee

Attachments

STATE OF CALIFORNIA - HUMAN RELATIONS AGENCY
Ronald Reagan, Governor
DEPARTMENT OF INDUSTRIAL RELATIONS
William C. Herm, Director

DIVISION OF LABOR STATISTICS AND RESEARCH
Leo G. Connolly, Chief
P. O. Box 965, San Francisco, Calif. 94101

EXHIBIT D

Program Cost Summary

Employment, Hours, and Earnings Statistics Program

1968-69

	No. of Positions	Total	Federal Contributions	General Fund Costs
Personal Services				
State	34[a]	$288,264[b]	$ 57,732[c]	$230,532
Federal	4[a]	24,528[d]	24,528[d]	-
Total	38	$312,792	$ 82,260	$230,532
Operating Expense				
Supplies, printing and postage		$ 47,206	$ 33,404[e]	$ 13,802[b]
New equipment		1,782		1,782[b]
Communications		3,265		3,265[b]
Travel		2,836		2,836[b]
Rent and building maint.		29,790		29,790[b]
ADP programming		393		393[b]
ADP services		67,541		67,541[b]
Reproduction services		13,314		13,314[b]
Total		$166,127	$ 33,404	$132,723
Total (excl. prorated costs and Admin. overhead)		$478,919	$115,664	$363,255
Prorations[f]		81,241		81,241[b]
Total charged to program		$560,160	$115,664	$444,496

[a]After April 1969 one of the Federal positions became a State position, changing the numbers to 35 State and 3 Federal.
[b]Source: Program Cost Reports prepared by DIR Fiscal Management. Salaries include staff benefits for health insurance, workmen's comp., OASDI, and State retirement.
[c]BLS reimbursement.
[d]BLS salaries paid directly to employees. Does not include the value of staff benefits
[e]Estimated value of printed forms and postage provided by BLS.
[f]State only. This is a prorated figure of DLS&R and DIR salary and operating costs not directly assigned to the program. Includes a proration of library services, management analysts services, as well as administrative overhead costs.

10/14/69

ORGANIZATION CHART- DIVISION OF INDUSTRIAL ACCIDENTS

AUTHORITY AND RESPONSIBILITY

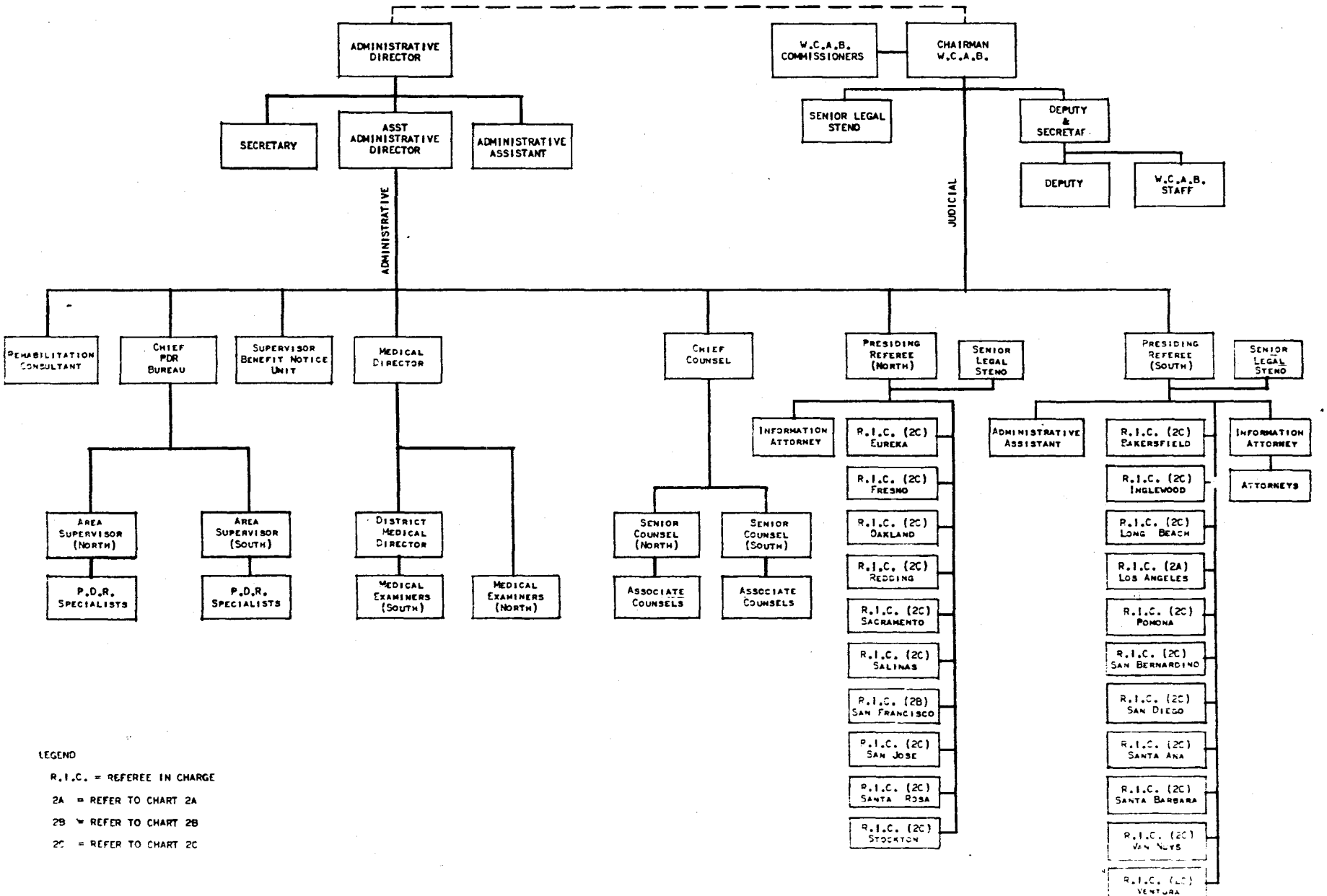


EXHIBIT E