EXECUTIVE SUMMARY

Ours is a rapidly aging society. The United States population over 80 years old will grow from 2.9 million in 1980 to 7.9 million in 2020. In California, the aging of the population is accelerating more rapidly than in the nation at large. Over the next 20 years, Californians aged 80 and over will increase by 138 percent.

Issues affecting the aged will, therefore, be more acute sooner in California than in most other states. Thus, unless problems such as abuse and neglect in residential facilities are corrected soon, they will affect greater and greater numbers of California's elderly. Despite many improvements made over the last five years, California's system of residential care for the elderly is still not adequate, even in licensed facilities.

Nationwide, between 500,000 and 1,000,000 cases of elder abuse are reported annually. This represents as many as one in every 25 persons over the age of 60. Thus, approximately 150,000 Californians may be victims of elder abuse. During the first quarter of 1987-88, ombudsmen throughout the State received 237 reports of abuse in residential facilities for the elderly. They investigated 226 of those reports and confirmed that abuse had occurred in 137 cases. Given the likelihood that the first reports in this new reporting system would undercount actual incidents, the reports demonstrate that abuse is a very real problem.

The Commission's study revealed that performance by the Department of Social Services' (DSS) Community Care Licensing Division is often arbitrary and slow. At both hearings held over the course of this study, the Commission heard testimony regarding the Department's arbitrary, inconsistent and delayed implementation and enforcement of licensing laws and regulations. Applications for licensure are severely backlogged, and the Department's computer system does not appear adequate to overcome performance weaknesses.

The study determined that the Department of Social Services' Enforcement Program suffers from underutilization of penalties and fines and a lack of coordination with local law enforcement. Fines for licensing violations in residential care facilities range from $25 to $50 per day. This is significantly less than fines for similar violations in skilled nursing facilities which range from $100 to $10,000 per incident. In addition, of the fines that are assessed by the Department of Social Services, only half are actually collected. Moreover, the Department is not required to involve local law enforcement in cases of abuse and neglect within set time limits. Thus, coordination between DSS and local law enforcement agencies on which the Department must rely to prosecute cases, varies dramatically. Without consistently enforcing the civil sanctions and effectively utilizing all law enforcement resources, the protection mechanisms established to insure the safety of elderly residents will continue to be ineffective.

The Commission believes that the continued operation of unlicensed facilities poses a serious threat to the safety and well-being of residents. The facility owner who starts operations without a license faces no significant penalty for doing so. Indeed, in light of potential revenue losses resulting from delays in license application processing, facility

owners actually have an economic incentive not to seek licensure. The Commission believes that investigating and prosecuting unlicensed facilities is difficult. However, it is imperative since currently unprotected residents are suffering because of the lax enforcement of laws.

In our 1983 report, the Commission found that residents are rarely visited by outsiders and that case management services were available for the developmentally and mentally disabled but not for the elderly. Case management begins with an assessment of an individual's functional abilities, using a standardized assessment instrument. The assessment becomes the basis for a decision to place an older person in a particular facility. Case management also includes ongoing visitation to monitor the individual's health status and overall well-being.Five years later, except for those elderly certifiably frail enough to be at risk of placement in nursing homes, case management services comparable to those provided for other vulnerable populations still are not available to older Californians on a systematic basis.

In addition, the Commission found that residential facilities for the elderly are caught from both sides by State fire regulations. On the one hand, they face slow and fragmented enforcement of fire codes that delay licensing or make continued operation difficult. On the other hand, these facilities often are plagued by rigid interpretation of the codes that force them to make costly changes that alter the noninstitutional setting in residential facilities. Without appropriate recognition of residential facilities as a special situation, the supply of residential care homes for the elderly may be greatly limited.

Additionally, the Commission's study determined that small facilities, licensed to serve six or fewer residents, lack the special oversight they need to function in the residential care network. One of the particular problems faced by licensees operating family setting residences is isolation. There is a great unmet need for respite care for administrators of family setting residences. Furthermore, Licensing is particularly ill-suited as the sole regulatory program for family setting residences. The loss of direct interaction with social workers resulting from the Community Care Act of 1973 exacerbates the potential for adverse effects from isolation that characterizes family setting residences.

Moreover, the Commission determined that quality is a low priority in California's Residential Care Regulatory Program. Licensing alone does not constitute a system of controls that could ever prescribe and monitor quality of care in the thousands of residential care facilities throughout the State.

Factors contributing to the public sector's lack of control over the quality of care in residential facilities include the State's lack of ability to offer performance incentives, lack of training, failure to assess the care needs of the residents, regulations that discourage specialization, lack of requirements for English-speaking capability and lack of adequate consumer education. Without the prescription of controls, quality of care in residential facilities will be inconsistent and, in many cases, inadequate.

The study also determined that there is no State level policy on or protocol for emergency relocation of community care residents, but local government is generally expected to support this activity in times of crisis. Because relocation procedures are not provided by the State, orchestrating a transfer becomes the responsibility of local authorities. However, the current county level emergency response capability is no match for the incidence of elder abuse and abandonment in residential care facilities.

Furthermore, the cost of providing residential care is not adequately documented. However, the Commission found that during the first half of the current decade, real spending on programs for seniors rose six percent while the over-60 population increased by 25 percent. Although approximately one-fourth of the residents are SSI/SSP recipients, the California Association of Residential Care Homes (CARCH) believes that many small homes cannot afford to accept SSI/SSP clients. CARCH estimates that the actual monthly cost per client is nearly double the current rate of $678. The State needs to know how much it costs to provide regulated levels of service in residential care facilities so that rates paid by the State to purchase those levels will assure that adequate service is available to those who qualify.

The Commission study also revealed that private funding mechanisms have not been established to relieve the public sector's financial burden.

Finally, for middle-income children, the cost of maintaining an elderly parent in a residential care setting becomes increasingly burdensome. Currently, only about two percent of long-term care costs in California are paid for by private insurance. Furthermore, many policies available at present cover only skilled nursing care. Long-term care plans similar to IRAs for investment-minded consumers are currently under consideration by the federal government but are likely to be expensive due to inflation of health-related costs.

The Commission's report presents 10 recommendations to improve the quality of life for California's citizens that live in residential care facilities.

1. Certify residential care facility administrators with specific education and training requirements.

2. Authorize and fund counties, at their option, to license small residential care facilities and provide placement counseling and assistance.

3. Identify new revenue sources from which to increase funding for residential care for the elderly.

4. Improve effectiveness of monitoring and law enforcement.

5. Launch a well-coordinated campaign to detect and eliminate unlicensed facilities.

6. Strengthen current law and regulations pertaining to resident protections.

7. Develop protocols for emergency services coordination.

8. Develop a waiver application procedure for requesting permission to operate a locked facility for special conditions such as Alzheimers disease.

9. Upgrade the Department of Social Services' management information capabilities.

10. Develop fire safety regulations specific to residential care facilities.