

December 30, 2023

Joe Stephenshaw, Director
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Director Joe Stephenshaw,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the California Law Revision Commission submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2023.

Should you have any questions please contact Debora Larrabee, Staff Services Manager I (Specialist), at (530) 752-3620, dlarrabee@clrc.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The California Law Revision Commission is an independent agency reporting directly to the Governor. We are reporting for ourselves with no other entities included.

The Commission's objectives are to fulfill the mission of the agency. This mission is to study laws in order to discover defects and anachronisms and recommend legislation to make needed reforms. All Commission activities are to promote this end.

The Commission assists the Legislature in keeping the law up to date by:

- *Intensively studying complex and sometimes controversial subjects.*
- *Identifying major policy questions for legislative attention.*
- *Gathering the views of interested persons and organizations.*
- *Drafting recommended legislation for legislative consideration.*

The Commission's efforts enable the Legislature to focus on significant policy questions in a recommendation rather than on technical issues that can be resolved in the process of preparing background studies, working out intricate legal problems, and drafting implementing legislation. The Commission thus helps the Legislature accomplish needed reforms that otherwise might not be made because of the heavy demands on legislative time. In some cases, the Commission's report demonstrates that no new legislation on a particular topic is needed, thus relieving the Legislature of the need to study the topic.

On January 1, 2020, a new policy-making body was added to the California Law Revision Commission, the Committee on Revision of the Penal Code. The Committee assists the Legislature in the study of the California Penal Code and recommend statutory reforms to achieve the following improvements:

- *Simplify and rationalize the substance of criminal law.*
- *Simplify and rationalize criminal procedures.*
- *Establish alternatives to incarceration that will aid in the rehabilitation of offenders.*
- *Improve the system of parole and probation.*

The California Law Revision Commission was created in 1953 as the permanent successor to the California Code Commission and given responsibility for the continuing substantive review of California statutory and decisional law (Gov't Code §§ 8280 - 8298).

Control Environment

The Management of the California Law Revision Commission has established and demonstrated integrity and ethical values in all areas of their duties and model a high standard of behavior and job performance setting the tone for the agency. This is overseen by the Executive Director of the Law Revision Commission.

Most of the Commission employees along with the Director are required to complete Ethics Training every two years.

The Commission is very small agency of less than ten employees with managers working directly with all staff on a weekly basis. This requires the Executive Director to monitor internal and external controls of all areas directly as is the nature of a small agency. The upside of being the only agency monitor is direct staff interaction allowing the Director to be in tune with all new and current practices and problems as they emerge. The Director maintains informal documentation of the control system through internal emails from staff, written notes from staff meetings and formal documentation of performance reports and evaluations.

The Director is committed to establishing and maintaining a competent workforce. This commitment extends to providing the training necessary to keep staff working at a high-performance level and providing new staff with the tools and mentoring essential for success. The director is responsible for enforcement of accountability and is mindful not to apply unreasonable or excessive pressures.

Information and Communication

As a very small agency, internal communications are direct and straightforward. The Executive Director communicates agency policy and program needs directly to every staff member, through face-to-face communications and email. Every staff member has the opportunity to report directly to the Executive Director and to request information from the Executive Director. This results in a very high quality of internal communication that reliably conveys relevant information.

The Executive Director and the staff attorneys communicate directly with the Law Revision Commission, at regular public meetings. The Executive Director and staff attorneys produce written memos discussing the Commission's business, which are posted to the agency's website, distributed to electronic mail distribution lists and sent directly to Commission members. In this way, the Commission staff reliably conveys relevant quality information to the Commission, to interested stakeholder groups, and to the general public.

The Executive Director and staff attorneys communicate with legislative staff and testify at policy committee hearings to explain the Commission's recommendations for statutory reform. This directly supports the Commission's core mission, making reform recommendations to the Legislature for their consideration.

The Executive Director and Staff Services Manager I (Specialist) communicate by email and telephone with relevant personnel in other agencies, to effectuate the Commission's administrative needs relating to accounting, procurement, personnel, and budget. The Executive Director and Staff Services Manager I (Specialist) also report relevant quality information to other agencies, as required for agency accountability.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the California Law Revision Commission monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Brian Hebert, Executive Director.

Because of the very small size of the Commission, monitoring processes are straightforward and robust. The Executive Director directly observes and evaluates the work of all other agency staff, on a first-hand and continuous basis. This enables the Executive Director to immediately detect any problematic results, shortly after they appear. This allows the Executive Director, working with other relevant staff, to develop and implement corrective measures at a very early stage. This system of continuous monitoring and minor correction allows the Commission to minimize and address any risks that manifest.

RISK ASSESSMENT PROCESS

The following personnel were involved in the California Law Revision Commission risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, other/prior risk assessments, consideration of potential fraud, and performance metrics.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Difficulty Administrating a Small Agency

Because of the very small size of the agency, managers and administrative staff are required to wear many hats. This jack-of-all-trades approach means that the agency lacks deep expertise in any part of the administrative process. This often creates unnecessary work and suboptimal results, as the staff is required to learn many processes largely from scratch, on an

as-needed basis, before moving on to the next.

Control: A - Host Agency

A possible Mitigation to this risk would be to find a host agency that would be willing to take the California Law Revision Commission (CLRC) into its organizational structure and provide it with the administrative support it provides to its other units. One significant obstacle to this is the CLRC's need for operational and policy independence. One of the main functions of the CLRC is to conduct law reform studies independently, without outside control. If the CLRC were made a subordinate part of another agency, which could exercise control over staffing and other critical resources, the independence of the CLRC could be compromised. Therefore, the Commission has not implemented this control and accepts the risk with no further action planned as implementation of the control will create further risk to CLRC's independent function of California Law Revision Commission.

Risk: Key Person Dependency

All of the Commissions administrative functions and state reporting are handled by one person. CLRC is a small agency of 8 employees with a single administrative analyst. As a result of these conditions, key person dependency is unavoidable.

Control: A - Procedure Manual

To mitigate this risk, we have established a written procedure manual to cover the administrative tasks. This would make it easier to training a replacement when that becomes necessary.

Control: B - Cross Training Staff

To mitigate this risk, we could cross-train personnel so administrative knowledge would not be completely lost with personnel transition. The downside to this approach is that it would reduce the resources available for the Commission's mission work. All other available staff are fully committed to such work. Therefore, the Commission has not implemented this control and accepts the risk with no further action planned as implementation of the control will create further risk the productivity of the agency.

Risk: Small Agency Resource Limitations

Very few required reporting and compliance regulations for state agencies have any kind of scaling or exemptions that are mindful of very small agencies. This means that we are often faced with requirements that are unduly burdensome when applied to an agency of our size. Compliance often requires an unreasonably large expenditure of resources.

Control: A - Host Agency

A possible Mitigation to this risk would be to find a host agency that would be willing to take the California Law Revision Commission (CLRC) into its organizational structure and

provide it with the administrative support it provides to its other units. One significant obstacle to this is the CLRC's need for operational and policy independence. One of the main functions of the CLRC is to conduct law reform studies independently, without outside control. If the CLRC were made a subordinate part of another agency, which could exercise control over staffing and other critical resources, the independence of the CLRC could be compromised. Therefore, the Commission has not implemented this control and accepts the risk with no further action planned as implementation of the control will create further risk to CLRC's independent function.

Risk: Agency Litigation

The CLRC has no funds budgeted for legal services. If we were ever to face litigation, we would need to find some source of emergency funding to cover the cost. Because the Commission does not provide services directly to the public, the greatest risk of litigation involves employment issues.

Control: A - Fair Management

To mitigate this risk, the agency supervisors have the necessary training to make fair management decisions and commit every reasonable effort to mediate employee grievances, reaching out for assistance when needed.

CONCLUSION

The California Law Revision Commission strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Brian Hebert, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency