

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## Department of Health Services:

*Although It Has Not Withheld Information Inappropriately, the Department Should Make Research Findings More Widely Available*



October 1999  
99106

The first copy of each California State Auditor report is free.  
Additional copies are \$3 each. You can obtain reports by contacting  
the Bureau of State Audits at the following address:

**California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814  
(916) 445-0255 or TDD (916) 445-0255 x 216**

**OR**

**This report may also be available  
on the World Wide Web  
<http://www.bsa.ca.gov/bsa/>**

Permission is granted to reproduce reports.



# CALIFORNIA STATE AUDITOR

---

KURT R. SJOBERG  
STATE AUDITOR

MARIANNE P. EVASHENK  
CHIEF DEPUTY STATE AUDITOR

October 28, 1999

99106

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the Department of Health Services' (department) handling of information developed using public funds.

This report concludes that the department has not withheld information inappropriately. Furthermore, we found no evidence that the department timed the release of reports to improperly influence the public or pending legislation. However, because the department lacks policies to guide its managers' decisions on releasing information publicly, and it sometimes incurs lengthy delays in releasing reports, it exposes itself to allegations of impropriety. The department could also reduce its exposure to such allegations by making its information more accessible to the public, such as maintaining a list of available reports on its Web site.

Respectfully submitted,

KURT R. SJOBERG  
State Auditor

# CONTENTS

---

<i>Summary</i>	1
----------------	---

---

<i>Introduction</i>	5
---------------------	---

---

## *Audit Highlights*

---

Although It Has Not Withheld or Timed Inappropriately the Release of Study Results, the Department Needs to Make This Information More Accessible to the Public	9
---	---

Recommendations	21
-----------------	----

## *Appendix*

---

An Overview of Surveys on the Smoking Ban	23
---	----

## *Response to the Audit*

---

Department of Health Services	27
-------------------------------	----

# SUMMARY

---

---

## Audit Highlights . . .

*Our review of the Department of Health Services' (department) handling of information disclosed that:*

- ☑ *Despite criticism by legislators, the media, and citizens, the department has not withheld research results inappropriately.*
  - ☑ *The department's lack of policies on report dissemination leaves it vulnerable to allegations of impropriety.*
  - ☑ *By publishing a list of available reports in an accessible location, such as its Web site, the department could reduce its vulnerability to these allegations of impropriety.*
  - ☑ *Although we found no evidence that it timed the release of information to inappropriately influence the public or pending legislation, the department sometimes incurred lengthy delays in releasing information.*
- 

## RESULTS IN BRIEF

The State's Department of Health Services (department), which develops research on health-related issues as part of its effort to protect and improve the health of Californians, has not established policies or procedures to guide its decisions about whether, how, and when to publicize the results of this research. Nonetheless, our review of 10 studies commissioned or completed by the department during fiscal years 1997–98 and 1998–99 showed that even though such guidelines are absent—and despite criticism by legislators, the media, and citizens—the department has not withheld study findings inappropriately. Not only is most of its information available upon request under the Public Records Act, but the department also has the authority to determine exactly how it will use the health information it acquires. Moreover, the department takes specific positions on certain health issues; sometimes by choice, but other times as required by statute, such as it does when advocating against smoking among Californians. These positions naturally guide the department's managers when they decide whether to release information to the public, to supply the data to specific groups, or simply to use the information as a tool for developing and evaluating the department's programs and educational materials.

During the last year or so, the department has faced criticism about its decision not to release data from a survey of bar owners and employees that showed their general lack of support for California's 1998 ban on smoking in bars. In reviewing this and other studies, we concluded that the department's decision not to disclose the survey results to the general public was consistent with the original purpose for this survey and that the department apparently did not intend to deprive the public or Legislature of information. Because the law requires the department to discourage tobacco use in California, and because the goal of the study was to provide data to programs within the department itself, management and staff instead used the results in an

educational program aimed at bar owners and employees. Further, it appears that the department's distribution of a press release announcing widespread public support for the smoking ban in bars, an event that occurred just five days before a legislative hearing on a bill to reverse the ban, was not an attempt to influence legislative decision making.

On the other hand, its lack of policies about study distribution continues to leave the department open to allegations that management has held back or timed improperly the release of information that may interest the general public. Even though the department has a policy that requires the director's approval for documents prepared for public dissemination, the policy is effective only after a manager has chosen to publish research findings. The department does not give managers guidelines for deciding which studies they should propose for public release, so inconsistent decisions among managers could occur. Further, managers have not always followed existing policy and sought approval from the director for studies they plan to make public.

The department is also vulnerable to charges that it is withholding information simply because it does not publicize the existence of information that the public can request. For example, of the 10 studies we examined, 6 went to limited audiences or did not go beyond the department but were available upon request. However, the general public probably does not know that these 6 reports exist. By developing a list of studies, surveys, polls, and research results that are available to the public, and by publishing this list in an accessible location, such as its Web site, the department could avert future controversies about the availability of its research.

Finally, the department could prevent controversies about the way it schedules the distribution of information if it were to publish the results of studies promptly after researchers have completed their work. For two studies we reviewed, the department unnecessarily delayed for various reasons its publication of the research data. Publication of one of these studies, involving hazardous radon levels in schools, awaited approval of a supplementary report by the department and by the Health and Welfare Agency, now called the California Health and Human Services Agency (agency). This agency then waited to release the radon analysis until after California's new administration took office in January 1999. Because of delays at both the department and the agency, the study did not become public

until almost one year after its completion. This type of postponement reduces the information's effectiveness and may defer preventive action that should take place as soon as possible.

## RECOMMENDATIONS

Because the health-related information it obtains can be vital to Californians and concerns important issues ranging from prenatal care to occupational disease, the department needs to develop a strategy for distributing its findings to the widest appropriate audiences. In designing this strategy, the department should design classifications for its information that correspond with levels of release, and it should establish policies that guide its managers to use the classifications consistently as they determine whether, how, and when to release departmental information. The classifications for information should include at least these categories:

- Research findings that are so important to the public that they should receive widespread release through the media.
- Results from studies and surveys that may be less important than reports in the first category but that will nonetheless interest the public. The department should create a list that discloses the availability of its information, and this list should appear in easily accessible places, such as on the department's Web site. In addition, the list needs to encompass all studies—including opinion polls, surveys, and research projects—that are available under the Public Records Act.
- Other types of information, such as documents and memos, that fall under the Public Records Act and thus should be available to the public upon request.

Moreover, to be sure that they are fulfilling their missions to enhance the health of Californians and to prevent the occurrence of health problems, the department and the agency should release promptly after research is complete any information that may interest the public.

## AGENCY COMMENTS

The department agrees with the report's conclusions and states that it will review its policies and procedures to determine how it might improve the timely dissemination and accessibility of public information. ■

# INTRODUCTION

---

## BACKGROUND

One of the largest agencies in state government, the Department of Health Services (department) encompasses almost 70 branches and more than 180 separate sections, and it employs more than 5,000 people in over 60 locations throughout California. In fiscal year 1997-98, the department spent more than \$20 billion in federal and state funds to fulfill its mission to protect and improve the health of all Californians. In fulfilling its mission, the department is committed to reducing the occurrence of preventable disease, disability, and premature deaths among Californians; closing gaps in health status and access to care among the State's diverse population; providing leadership in reforming health care so that it is a coordinated, accountable, and affordable system; building and fostering partnerships with local health agencies and other interested groups; and improving the quality and cultural competence of the department's operations, services, and programs.

To carry out its mission, the department develops large amounts of information, much of which its staff uses internally to develop or evaluate programs. This information includes studies—or similar efforts such as surveys, research projects, and opinion polls—to assess the effectiveness of existing projects or to identify needed services. Limited audiences, such as county health departments or conferences of medical specialists, receive the results of other departmental studies. The department sometimes discloses to the general public the information it collects about health issues such as tobacco use, abortion, and women's health that will interest a broad spectrum of citizens. These efforts usually become media campaigns that take the form of press releases, brochures, or other types of advertisements. For example, for its antismoking effort, the department developed a media campaign consisting of television and radio spots as well as other advertising. Various programs within the department have also used the department's Web site to provide information to the public.

According to department policy, the director must approve the public release of any information. The director then determines whether the distribution of the data requires approval from the secretary of the California Health and Human Services Agency (formerly the Health and Welfare Agency) or from the Governor.

## **SCOPE AND METHODOLOGY**

The Joint Legislative Audit Committee (JLAC) requested that the Bureau of State Audits determine if the department consistently applied its policies for conducting studies and releasing the results. In addition, JLAC was interested in whether the department inappropriately uses, or does not fully disclose, results from studies that are funded with public money.

We reviewed state laws and regulations, researched the department's policies and procedures, and interviewed department staff to assess whether the department has any guidance for conducting and releasing results from studies.

To evaluate whether the department is consistent in the way it initiates and releases studies, we sampled 10 of the more than 270 studies completed between July 1, 1997, and June 30, 1999. To select our sample, we asked the department to compile a list of all studies that it or another organization acting on its behalf had finished during the two-year period. We did not include efforts that focused on specific subgroups, such as audits of grant recipients. We also did not include studies provided to the department and performed by other organizations that were not working on the department's behalf.

From the list compiled for us by the department, we learned the purpose for each study in our sample. Examining relevant documents and interviewing management helped us determine how the department intended to use the information. If the public had received a study's results, we analyzed factors that contributed to the timing of the results' release by reviewing internal documentation, such as memorandums and e-mail, and by interviewing department management and staff. If the department had decided against public distribution of study findings, we evaluated whether the department's decision was reasonable. In making this determination, we considered the study's findings and how the department intended to use them, and then we concluded whether the subsequent release of the findings was consistent with the department's original intent for

the study. Because it did not always retain study drafts, we were not able to ascertain how the department revised the studies during its review process; however, we did verify the accuracy of a sample of information contained in the 10 studies. Furthermore, we evaluated press releases related to 2 studies in our sample to determine whether the studies supported the information contained in the press releases.

To assess whether the department handles consistently and reasonably the information on issues for which it has assumed an advocacy role, we selected three programs in which the department supports a certain position. We then looked at the types of information related to these programs that the department develops and releases publicly. In doing so, we assessed whether the department considers and discloses points of view that do not match its own.

Finally, when JLAC approved this audit, a concern arose related to the department's handling of a cancer incidence study conducted for areas surrounding the Simi Valley Rocketdyne facility in Southern California. A local regional cancer registry completed this study at the request of a county health officer in Southern California, and the department received a copy of the findings. Because the department did not complete the study or ask another organization to conduct the study on the department's behalf, we did not include it in our review. However, the governor did direct the secretary of the California Environmental Protection Agency to investigate, among other things, the department's handling of the study. The results of this investigation, released in October 1999, concluded that there appears to have been no intent by the department to "suppress or withhold" the report. However, the investigation also concluded that an apparent "organizational failure" occurred within the department when it did not share the report with other potentially interested parties. Furthermore, the investigation found that the department inappropriately shared with Rocketdyne management drafts of other cancer studies prepared by the University of California, Los Angeles, and that the department delayed unreasonably the planning and funding of Rocketdyne community health studies. ■

Blank page inserted for reproduction purposes only.

# AUDIT RESULTS

---

## ***Although It Has Not Withheld or Timed Inappropriately the Release of Study Results, the Department Needs to Make This Information More Accessible to the Public***

### SUMMARY

Recently criticized for failing to disclose to the general public all the information it collects on health-related issues, the Department of Health Services (department) often chooses not to publish its research data but instead uses the information internally as it develops and evaluates department programs. In our review of 10 studies it commissioned or conducted, we concluded that the department had not withheld or scheduled inappropriately the release of the studies' results. The department also had valid reasons for limiting the availability of some information to certain audiences or to those who request the data, as it did for 6 of the 10 studies we evaluated. Further, it has the authority to decide how it will use or release the results of its studies, such as the surveys the department commissioned to assess how owners, employees, and patrons of bars were responding to California's 1998 ban on smoking in bars. Nonetheless, the department needs to reduce its vulnerability to allegations of misconduct by establishing clear guidelines that will help managers decide which information the department should distribute widely. It could also decrease the potential for accusations of impropriety by including on its Web site a list of studies available to the public and by releasing study findings promptly after researchers have completed and summarized their work. By doing so, the department could better inform the public of the important information that is available.

### **THE DEPARTMENT HAS NOT WITHHELD INFORMATION INAPPROPRIATELY**

Under the Public Records Act, most of the department's information is available to the public upon request; however, during the last few years, legislators, the press, and activists have criticized

the department for withholding information they feel the public has the right to see. For example, the department became the subject of controversy because it did not release a 1998 survey of bar owners and employees that showed these groups did not support the State's ban on smoking in bars. Nonetheless, our analysis of 10 studies developed by or on behalf of the department and our review of the 1998 survey revealed that the department did not withhold information inappropriately.

Although the department had not distributed for public use the results of 2 of the 10 studies we reviewed, and it had disclosed another 4 only to limited groups outside the department, its reasons for not disclosing information to the general public were reasonable. In making this determination, we considered the study's findings and how the department intended to use them, and then we concluded whether the subsequent distribution of the findings was consistent with the department's original intent for the study. According to the department, it collects information to assist with guiding and assessing the programs it oversees, and tools such as surveys and opinion polls help primarily with identifying public needs and evaluating program effectiveness. The results of such surveys may not necessarily interest the general public. For example, in late 1997 and early 1998, the department surveyed medical doctors to determine whether they were aware of the positive benefits of folic acid for women in their childbearing years. The department did not see a need to release the survey results to the public; nevertheless, the survey prompted the department to recognize and meet a need for educational materials among medical doctors. To help inform patients about the benefits of folic acid, the department also provided doctors with posters for public display and pamphlets in both English and Spanish. In this case, the department's survey had targeted physicians, and these individuals became the means by which the department made public some important health information affecting a specific group of patients. For a brief overview of all 10 studies we evaluated, see the table on the following page.

---

*Results of studies not released to the public are used to improve the department's programs.*

---

### **The Department Had the Prerogative Not to Publish the Bar Owners Survey**

Just as it did not publicize its survey about doctors and their knowledge of folic acid's benefits, the department did not always disclose to a wide audience the results of public opinion surveys regarding smoking in bars. Accused of withholding from the public and the Legislature its results from public opinion

**TABLE**

A Sample of 10 Studies Completed by the Department of Health Services		
Topic	Dissemination	Description
Long-Term Care	Public Limited distribution	A determination of which advertisements would inspire interest in long-term care insurance. (July 1997)
Asian Medicines	Public Limited distribution	A study listing 260 Asian patent medicines that may be dangerous to the public. (January 1998)
Prenatal Benefits of Folic Acid	Internal use †	A survey of physicians' knowledge of the benefits of folic acid before and during pregnancy. (February 1998)
Smoking	Public Press release	Poll of the reactions of bar patrons to the smoke-free bar law. (March 1998) *
Radon Concentration in Schools	Public Web site	A survey of indoor radon concentrations in California elementary schools. (May 1998)
Women's Health	Public Media release	A survey assessing issues related to women's health. (November 1998)
Medi-Cal Case Management Program	Internal use †	An evaluation of the Medi-Cal case management program. (January 1999)
Abortion	Public Web site	A report on the number of induced abortions funded by Medi-Cal during 1997. (February 1999)
HIV/AIDS	Public Limited distribution	A report about HIV prevalence among injection drug users. (March 1999)
Teen and Unwed Pregnancy	Public Limited distribution	A survey to assess the effectiveness of a campaign to reduce teen and unwed pregnancy. (April 1999)

\* For the purposes of this table, we did not include a poll of bar owners and employees that was conducted at approximately the same time as the bar patron poll. The following section discusses this poll, which the department did not issue to the public.

† We relied on the department's assertions that it used these studies internally and did not release them publicly.

surveys, the department nevertheless did not retain this information improperly. Much of this information is available upon request, and no law requires the department to issue such information to the public. Rather, the department uses its discretion in deciding which information it will release publicly and which it will use internally for program development and evaluation. In fact, for surveys related to smoke-free workplaces, the department appears not to have based its decisions about public disclosure on whether the surveys' results support or oppose the smoking ban.

The department's Tobacco Control Section is responsible for implementing certain mandates of the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), which, among other things, works to reduce smoking in the State through education programs. To fulfill this responsibility, the department funds various activities that seek to educate the State's population, especially its youth, about the dangers associated with the use of tobacco products. Periodically, the department has commissioned polls to determine the public's response to such things as the workplace smoking ban. For a detailed overview of the department's Tobacco Control Section, see the Appendix.

On January 1, 1995, California's smoke-free workplace law banned smoking in indoor workplaces. Bars were exempt temporarily to allow for development of ventilation standards; however, by January 1, 1998, the smoking ban also included bars. To determine Californian's acceptance of the new law, the department conducted numerous public opinion surveys between February 1996 and August 1998 and used the information to bolster its antismoking efforts. Although the department occasionally incorporated in press releases or media campaigns the data from these polls, it used most of this information for internal program guidance and evaluation.

In February 1996 and July 1997, the department commissioned public opinion polls of California adults to gauge the public's receptiveness to the smoke-free workplace law. The general public did not learn the results of these polls even though the findings showed that the public supported smoke-free workplaces, and the 1997 poll indicated support for smoke-free bars in particular. Instead, using its discretion, the department referred to the poll results when it developed educational and planning materials, such as a brochure for bar owners, as well as community outreach efforts.

Reacting in early 1998 to the swell of media reports about mass noncompliance with the ban on smoking in bars, the department and local health departments also conducted a quick survey on the rate of compliance among bars in California. The department again did not issue the results to the general public. However, according to the department, due to the "unscientific" nature of the survey, it decided to conduct follow-up studies to gain a more accurate picture about the attitudes and knowledge of bar owners, employees, and patrons about secondhand smoke and the new smoking ban law.

***Most of the information developed by the department for its antismoking campaign was used for internal program guidance and evaluation.***

---

*Consistent with its original intent, the department publicly released the bar patrons poll, but elected not to release the bar owners and employees poll.*

---

The department commissioned two follow-up studies. The first, a poll of bar patrons conducted in late February and early March 1998, found that most patrons supported the law that banned smoking in bars. On the other hand, the second poll, which questioned bar owners and employees and took place in early March 1998, revealed that most owners and staff opposed the smoke-free bar law. Department management released to the public the results of the first survey but not of the second. The department told us that it intended to make public the results from the bar patron survey as soon as they were available. Indeed, in June 1998, the media received these results. According to the department, in contrast to the first survey, the survey of bar owners and employees was meant to serve as a planning tool; the results would allow the department to tailor numerous training sessions for bar owners, employees, and local law enforcement agencies in methods for implementing the law. The survey was also necessary, explained the department, because the only existing information about bar owners' and employees' opinions came from anecdotal hearsay or from media reports. Because the second follow-up survey served a specific purpose within the department, and because management has not issued results from other surveys that indicate support for the smoking ban, we believe that the department did not act inappropriately when it chose not to publicize data from the poll of bar owners and employees.

### **The Department Must Serve as an Advocate in the Antismoking Campaign**

The department's decision to use the survey of bar owners and employees for internal program development—for educating bar owners and employees—rather than to disclose it to the general public was also consistent with its role as an advocate in California's campaign against tobacco use. The department promotes a tobacco-free lifestyle and environment for all Californians. This advocacy role, mandated by law, originated with Proposition 99. Approved by voters in November 1988, the proposition provides substantial revenue for the State's anti-smoking campaign by imposing an additional tax on tobacco products. Twenty percent of the additional revenue goes to school and community health education programs geared toward preventing and reducing tobacco use.

A law enacted to implement Proposition 99 after it passed required the department to conduct activities directed at the prevention of tobacco use and tobacco-related diseases. The law

also intended that, for the purpose of program planning and evaluation, the department provide data and technical information on tobacco-related diseases, tobacco use and its consequences, and effective personal and community interventions to prevent tobacco use. To diminish tobacco use and prevent tobacco-related diseases, the department was to establish a program on tobacco use; conduct statewide surveillance of tobacco-related behaviors, knowledge, and attitudes; and evaluate the department's local and state tobacco control programs. Additionally, the law requires the department to conduct an ongoing information campaign using a variety of media approaches. To fulfill these responsibilities, the department established the Tobacco Control Program.

---

*The department's use of the bar owners and employees poll was consistent with its advocacy role, which is mandated by Proposition 99.*

---

The department's use of the tobacco studies noted above is consistent with its advocacy role. The fact that most bar owners and employees did not favor the smoking ban in bars does not change the effect of tobacco smoke on the health of Californians. The negative health consequences of smoking tobacco were the impetus for Proposition 99 as well as the department's advocacy role to reduce smoking in the State. Therefore, even though we believe that issuing the information would not have thwarted the department's purposes, its use of the bar owners and employees study solely for internal program development—for educating bar owners and employees—was consistent with the department's advocacy role.

### **The Department Advocates Positions on Other Public Health Issues**

In addition to campaigning against tobacco smoking, the department also takes stands on other public health issues, and it decides the types of health-related information it should distribute to the public. In its advocacy roles, the department delivers messages to persuade Californians about its views on a number of public health concerns. These messages are not arbitrary. For some issues, such as tobacco use, the department has a clear mandate for its position. For others, the department considers alternatives, relies on its expertise and research, and often consults with advisory groups to decide on the messages it delivers. The department then structures its program efforts to advance the points of view it advocates.

During our review, we learned about two other programs in which the department plays an advocacy role. The department's Office of AIDS (office) is the legislatively designated lead agency

---

*Persuading Californians about its views on a number of health issues is consistent with the department's advocacy role.*

---

responsible for coordinating state programs, services, and activities relating to Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS). The office's mission is to assess, prevent, and interrupt the transmission of HIV and provide for the needs of infected Californians. The office carries out its mission, in part, by educating people at risk to change their behavior and to consider testing. In many ways and using a number of messages, the office informs people at risk. The office launched the California AIDS Prevention Campaign in November 1995. The campaign was a three-year marketing program for AIDS prevention that used paid advertising, public relations, and community marketing strategies. The campaign encouraged sexually active young adults to adopt safe sex behaviors and worked to persuade people at risk to seek HIV counseling and testing. For intravenous drug users, the office advocates abstaining from drug use even though it recognizes that addicts will probably not abstain. The office also promotes the use of clean needles.

In another advocacy role for the department, the Partnership for Responsible Parenting (PRP), created in 1997 and administered by the department's Office of Family Planning, addresses the issue of pregnancy within teenage and unwed populations. The teen survey we selected for our sample is part of the PRP's public communication campaign. PRP messages include abstinence; a general awareness of problems associated with teen and unwed pregnancy; a call to action, such as adults talking to teens and teens talking to adults about sex; mentoring; and male involvement in pregnancy prevention and fatherhood, including increasing men's awareness of statutory rape consequences. The messages are delivered by mall posters, signs on buses, billboards, radio and television ads, mall fairs, and teen rallies.

### **ITS LACK OF POLICIES FOR RELEASING REPORTS LEAVES THE DEPARTMENT VULNERABLE TO ALLEGATIONS OF IMPROPRIETIES**

Even though it has not withheld information inappropriately, the department's lack of clear, effective guidance related to the public disclosure of information leaves the department vulnerable to accusations of impropriety. To be effective, a large organization like the department must delegate decision making if it is to fulfill its mission successfully. Indeed, the department already relies on its managers' discretion to decide which information to propose for public release. However, the department

---

*The department has not clarified for its managers what information is appropriate to disclose publicly, nor has it defined what qualifies as a public release.*

---

does not give managers adequate guidance regarding the types of information that are appropriate to disclose publicly or even what constitutes public release. Because it is not clear about what qualifies as a public release, the department has distributed some studies without its director's approval. In drawing this conclusion, we viewed studies distributed outside of the department as public releases. Although the department has a policy that assists managers in determining who must approve a study once someone within the department has decided to propose a study's public release, no guidelines direct managers in proposing the release. Furthermore, contrary to its policy, we found that the department had not forwarded to the director for approval some studies that staff had distributed outside the department. Because it has these weaknesses and gaps in its policies, department managers could reach inconsistent decisions about the public release of information.

Although the Public Records Act makes most of the department's information available to the public upon request, we could find no legal requirement for the department to publicize or even disclose the existence of its information. The department depends instead on its managers' judgment as to which information should receive broad distribution. However, several department managers indicated that the department has not provided policies to guide managers who are responsible for proposing this distribution. Large organizations need to delegate authority because directors cannot make all the decisions centrally, particularly with regard to the handling of information, or they will become overwhelmed. However, delegation without clear, effective guidance that communicates the director's decision-making approach leads to inconsistent treatment within the organization. For example, in 1999, the department completed studies on HIV/AIDS and induced abortions funded by Medi-Cal. Although both reports cover important topics that the department might want to release publicly, only one—the abortion study—went out to the general public by means of the department's Web site. When it handles information inconsistently and displays no rationale behind its release of information, the department may face allegations that it has acted improperly.

Additionally, we found that because policies are unclear, the department does not consistently follow its procedures for report approval once a manager has decided to publish a study. Although policy requires the director's approval for all studies that will receive public release, the department has not defined

“public release” for its managers. According to the department, some studies issued to the public—or to any individual or group outside the department—receive approval at the program level, while others receive approval at levels as high as the Governor’s Office. We recognize that some studies may be more appropriately approved at a lower level than the director. However, clear departmental guidance that assists managers in identifying studies that could receive lower-level approvals would result in more consistent approval decisions.

---

*Delegating decision-making responsibilities without communicating the director’s approach may lead to inconsistent results.*

---

In addition, our review showed that some program managers approved potentially controversial studies for public distribution and did not provide the director with the opportunity to review the studies before their publication. In our sample of 10 studies, 8 had been released publicly—4 to the general public and 4 to limited audiences. According to the department, 3 studies received approval from program managers only. Of these, 2 dealt with important topics such as HIV/AIDS and the number of abortions funded by Medi-Cal. We concluded that the 3 studies had not undergone proper authorization because managers did not feel the reports were publicly released even though the department had issued the reports outside the department. The department told us that the purpose of its policy that requires the director’s approval for the release of documents outside the department is to keep upper management informed and to give these individuals an opportunity to review documents before their distribution. By defining in its approval policy the meaning of “public release,” the department would ensure that its management is aware of the study results that will be distributed to the public.

## **THE DEPARTMENT COULD DO MORE TO MAKE ITS INFORMATION ACCESSIBLE TO THE PUBLIC**

To promote good public policy and to distribute effectively any of its health-related information that could be important to Californians, the department needs to develop a strategy for ensuring the widest appropriate dissemination of its data to the public. Had it made its information more accessible in the past, not only would the department have kept the public better informed on these important matters, but it also might have averted the controversy surrounding its survey of bar owners and workers concerning the State’s smoking ban in bars.

The department's levels of release include making survey information available if requested, disclosing information to specific groups, and disseminating the information directly to the public. The department's disclosure of findings from the 10 studies we reviewed encompassed these various levels of release. For example, the department announced its 1997 women's health survey at a press conference and distributed the survey results widely. In contrast, results from the Medi-Cal case management study were not circulated but were available if requested.

Even though the Public Records Act ensures that most public agency documents are available to everyone for inspection, the public cannot request information that it does not know exists. Of the 10 studies we reviewed at the department, 6 were not disclosed publicly, or they were released to limited groups only. Thus, even though the information is accessible to the general public, the public is probably unaware that these studies are available. Additionally, because the department does not issue all its studies, it may receive criticism that it is withholding information intentionally.

To ensure that the public knows about all its studies, the department should make easily accessible a list of its completed projects. For example, the department could use its Web site to post a list of its reports and provide information from some of its more popular projects in a format that computer users can copy and read. Because most of its information is already available to the public upon request, we do not anticipate that the department would have to expend significant additional resources to compile such a list.

## **THE DEPARTMENT SOMETIMES DELAYED BUT DID NOT MANIPULATE ITS STUDIES' RELEASE TIME**

Although the department sometimes incurred lengthy delays when distributing information, we found no evidence that it timed the release of any of the 10 studies we reviewed to influence inappropriately the public or the Legislature. However, we determined that the former Health and Welfare Agency timed the distribution of one study deliberately. Such delays reduce the effectiveness of the information. They also leave the department vulnerable to allegations that the department manipulated the timing of the release of its reports or inappropriately retained information.

---

*Most public agency documents are available to everyone for inspection; however, the public cannot request information that it does not know exists.*

---

---

*When legislators amended a bill to repeal the smoking ban in bars, the department was already planning its press release.*

---

The department faced accusations that it timed the release of the bar patron survey to influence legislation. The survey did become public just five days before a legislative hearing on a bill that would have restored smoking to California's bars. Concerns were raised about the close timing between the department's press release and the legislative hearing on the bill. Initially relating to a horse-racing issue, Senate Bill 1513 was amended on June 22, 1998, just two days before the department's press release, to repeal the smoking ban in bars. However, the department states that it was unaware of the bill when it planned the press release. Indeed, we found that when legislators amended the bill, the department was already planning its press release, and the timing therefore appears coincidental. For additional information on this issue, see the Appendix.

We noted, however, that the department's distribution of 2 of the 10 studies we reviewed involved lengthy delays. One study did not become public for almost a year after its completion. This study, a reanalysis of data collected in fiscal year 1991-92, estimated indoor radon concentrations in California elementary schools and specified certain regions within the State in which radon may pose a danger to the public. A radioactive, colorless, and odorless gas, radon contaminates indoor air by diffusing from soils and rocks and by infiltrating housing foundations. The 21 schools with high concentrations of radon had received notifications in 1992; however, the department did not distribute the new information promptly even though epidemiological studies around the world have demonstrated a causal association between exposure to radon and lung cancer.

Although the department completed the radon reanalysis in May 1998, the results did not become public until April 1999, almost a year later. According to the department, the study was delayed for four months while it awaited approval by the department, and it waited another seven months to be approved by the Health and Welfare Agency, now called the California Health and Human Services Agency (agency). The department stated that the delays occurred because the department was processing a separate air quality report for release with the radon report, which was awaiting revision to address management concerns. Further, when the department submitted both studies to the agency in September 1998, the agency elected to delay their release until the State's newly elected administration began its term in January 1999. In March 1999, the department again submitted the radon report to the agency, which approved it that same month. On April 6, 1999, the Governor's Office

---

*The results of the reanalysis of radon concentrations in schools did not become public until April 1999, almost a year after the department completed it.*

---

approved the study for public release. Ultimately, according to the department, it distributed the report to the federal Environmental Protection Agency, the California Department of Education, a legislator, as well as others. In addition, the report is available on the Internet.

A report on teen and unwed pregnancy also incurred a shorter but still lengthy delay before the department distributed it. The report spent two months at the department and two months at the agency during April through August 1999. The department said that the wait occurred primarily because it was revising the accompanying narrative that was needed to obtain approval from the agency—not the report itself.

The department's explanations indicate that its delays were not attempts to manipulate improperly the release schedules of these two reports. However, the agency took deliberate measures when it deferred the release of the radon study until the arrival of a new administration. Such delays reduce the effectiveness of the information and may preclude needed action from taking place.

Additionally, we noted an instance in which the department took approximately six weeks to provide information in response to a Public Records Act request after it received payment from the requester for copying charges. This request was for the detail of the poll we discussed earlier on bar patrons' attitudes toward the ban on smoking in bars. This act requires departments to respond to such requests promptly. Not only did the department take weeks to respond to the request, but it also mistakenly sent the wrong information. Because of several circumstances, some of which were outside of the department's control, the requester did not receive correct information from the department until almost five months from the date of the request. Lengthy delays such as this, or like those described above, leave the department open to criticism that it manipulates the timing of report distribution or that it withholds information.

Finally, the studies we reviewed supported the information that the department disclosed publicly. Specifically, we tested press releases for two of the studies in our sample to determine if the information supplied to the media was consistent with data from the original studies. In both instances—the research on California women's health and the smoking survey of bar patrons—the information had support.

## RECOMMENDATIONS

To better inform the public about health-related issues, the department should develop a strategy for releasing information that ensures the widest dissemination appropriate to the subject matter. To develop this strategy, the department should define classifications for its information that correspond with levels of release. These classifications should at least include the following categories:

- Information so important to the public that the media, through such methods as ad campaigns and press releases, should disclose the data.
- Findings that have less importance than information in the first category but that will still interest a wide audience should become public through such means as a list on the department's Web site. In developing this list, the department should include all studies—including efforts such as opinion polls, surveys, and research projects—that are available under the Public Records Act and may be of interest to the public.
- Other information, such as individual documents and memos, subject to the Public Records Act should be made available to the public upon request.

Also, the department should provide additional guidance to its managers so that they will know whether, how, and when to release information consistent with the classifications recommended above. As part of this guidance, the department should clarify the appropriate approval level for studies that it releases.

Finally, the agency and the department should release promptly after completion of studies any results that might interest the public.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG  
State Auditor

Date: October 28, 1999

Staff: Karen L. McKenna, CPA, Audit Principal  
David E. Biggs, CPA  
Arn Gittleman, CPA  
Deborah Ciarla  
Nuno P. DaLuz

# APPENDIX

---

## ***An Overview of Surveys on the Smoking Ban***

Consistent with the mandate delivered by voters with their passage of Proposition 99 in 1988, the Tobacco Control Section of the Department of Health Services (department) advocates a tobacco-free lifestyle and environment in California. Proposition 99 established a new funding source—taxes on tobacco products—that among other things finances the activities of the Tobacco Control Section. These activities attempt to educate the public, especially youth, about the dangers associated with the use of tobacco products and to persuade the public to stop or avoid using tobacco products.

On January 1, 1995, California implemented a statewide ban on smoking in workplaces. At first, bars were exempt from the law; however, as of January 1, 1998, the law covered these businesses too. To counter adverse publicity surrounding the implementation of the smoking ban in the State, the Tobacco Control Section commissioned a series of opinion polls. In February 1996, an independent polling agency, on behalf of the department, conducted a random poll of California adults to gauge the public's receptiveness to the new smoke-free workplace law. The department distributed copies of the poll to local health departments for their education and outreach efforts; however, the department did not release the results to the general public. In July 1997, another independent polling agency surveyed California adults to assess the public's attitudes on various issues related to smoking policies and smoke-free bars. The department used the poll results to develop educational and planning materials, such as a brochure for bar owners, as well as community outreach efforts. The department again did not disclose the poll results to the general public.

In January 1998, responding to the swell of media reports about mass noncompliance with the 1998 ban on smoking in bars, the department conducted a quick survey through local health departments about compliance among bars in California. Once again, the department did not publicize the results. However, according to department management, the "unscientific" nature of the survey prompted the department to obtain a follow-up

study to gain a more accurate picture of the attitudes and knowledge of bar owners, employees, and patrons about secondhand smoke and the law.

The department commissioned two polls in spring 1998. The figure at the end of the Appendix illustrates a time line for these two polls. Conducted between February and early March, the first surveyed bar patrons and was consistent with prior polls in that it found most patrons supported the smoke-free bar law. On the other hand, the second, which questioned bar owners and employees, found that most respondents opposed the law. The department used a press release to publicize the bar patron survey, but the department did not release publicly the survey of the bar owners and employees. A smokers' rights group and the press raised concerns that the department released only information that supported its point of view. According to the department, it always intended to publish results from the poll of bar patrons, but it planned from the beginning to use the survey of bar owners and employees as an internal tool for guiding the development of education programs. Indeed, the department asserted it has used data from the bar owners and employees survey in its training sessions for bar owners and staff as well as for local law enforcement agencies on ways to implement the law. Given its mandated role in the campaign against smoking, the Tobacco Control Section's decisions regarding information from the two polls appear reasonable. On the other hand, if the department had disclosed data from the poll of bar owners and employees, we do not believe the disclosure would have thwarted the department's objectives in the anti-smoking campaign.

The Tobacco Control Section told us it submitted a draft press release to the department's public affairs office in May 1998 announcing the results of the bar patron survey. According to the department, its subsequent involvement in a media campaign launched in June as well as other priorities delayed the publication of the press release. The Governor's Office approved the release on June 18, and the department distributed it to the media on June 24. A legislator and the press then raised concerns that the department might have timed the press release to influence pending legislation that would restore smoking in bars. Senate Bill 1513, initially related to a horse-racing issue, was amended on June 22, 1998, just two days before the department's press release, to repeal the smoking ban in bars. The department states that in planning the release, it was unaware of the bill. Indeed, the timing appears coincidental.

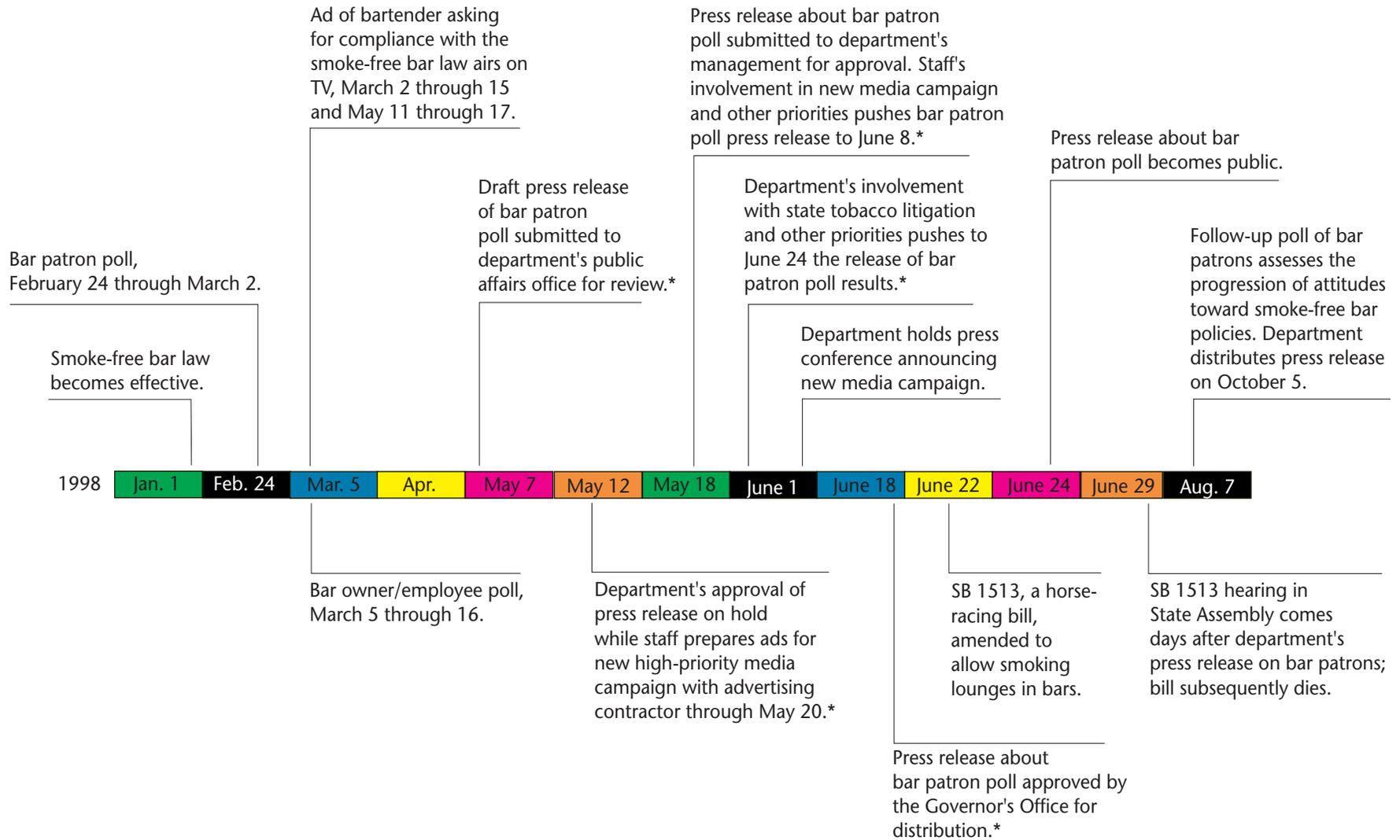
The department's Office of Legislative and Governmental Affairs, charged with tracking legislative bills and analyzing their impact on the department, first noticed the amended bill on June 24, 1998, and brought it to the attention of the Tobacco Control Section staff on June 25, one day after the press release. The department indicated that when legislators amended the bill to broach the smoking issue, its management had already finalized the press release and was preparing it for release. Therefore, it appears that the department did not time its press release to affect legislation.

Although the department did not publicly release the bar owners and employees survey results, the information was available to the public upon request under the Public Records Act. However, the public was unaware of the survey. According to the department, its survey of bar owners and employees became known inadvertently in October 1998, when the department mistakenly sent it to a smokers' rights group that had requested details about the bar patrons survey.

Another concern was that the department was conveying messages in its media campaigns that contradicted survey information the department possessed. For example, the department developed a television ad portraying a bartender telling his customers he likes the new smoke-free bar law. The ad first aired on March 2 for a two-week period and appeared again between May 11 and 17. If the department had intended to portray the bartender as representative of most bartenders in California, the advertisement would have contradicted the information it received from the bar owners and employees survey, which was completed on March 16. According to department staff, the bartender advertisement was not intended to convey factual information from any particular survey or poll. Rather, according to a department senior manager, the advertisement was a fictional portrayal of a bartender intended to influence the public to comply with the smoke-free law. Although most bar owners and workers did not support the ban, some did.

FIGURE

Events Related to the 1998 Surveys of Bar Patrons, Owners, and Staff, About California's Law That Bans Smoking in Bars



\* Information provided by the department.

*Agency's response provided as text only.*

Department of Health Services

Date: October 20, 1999

To: Kurt R. Sjoberg  
State Auditor  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

From: Office of the Director  
714 P Street, Room 1253

Subject: Bureau of State Audit's Draft Report on Department of Health Services' Dissemination of Study Information

Thank you for the opportunity to review and comment on the draft report: "Department of Health Services: Although It Has Not Withheld Information Inappropriately, the Department Should Make Research Findings More Widely Available." The Department of Health Services (Department) appreciates your conclusion that we have not inappropriately withheld information resulting from our surveys and studies.

We believe the audit report provides valuable information to help improve the Department's management of the public release of information. As the report notes, most of the information resulting from Department surveys and studies is already available upon request. However, as the report recommends, we will be reviewing our policies and procedures to determine how the Department might improve the timely dissemination and accessibility of public information. Specifically, we will consider developing a strategy for categorizing documents and establishing guidelines for the appropriate public release, media publicity, and dissemination of documents within each category. In addition, we will develop guidelines to assist managers in properly exercising their discretion in determining how and when to release information and assessing what level of approval is appropriate prior to public release. Finally, we will also investigate opportunities for providing more information about available publications on the Department's Web site.

If you have any questions regarding our response, please contact Charleen Milburn, Deputy Director of Legislative and Governmental Affairs, at (916) 657-2843.

*(Signed by: Diana M. Bonta', R.N., Dr. P.H.)*

Diana M. Bonta', R.N., Dr. P.H.  
Director

cc: Grantland Johnson, Secretary  
Health and Human Services Agency  
1600 Ninth Street, Room 460  
Sacramento, CA 95814

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Attorney General  
State Controller  
Legislative Analyst  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Majority/Minority Consultants  
Capitol Press Corps