

**OFFICE OF THE DISTRICT ATTORNEY AND EMPLOYMENT AND  
HUMAN SERVICES DEPARTMENT  
CONTRA COSTA COUNTY**

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**DATE: October 3, 2011**

**TO: Public Protection Committee of the Board of Supervisors**

**FROM: Joe Valentine, Director, Employment and Human Services  
Mark Peterson, District Attorney**

**SUBJECT: Report on Welfare and In-Home Supportive Services Fraud  
Investigations & Prosecutions**

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**BACKGROUND**

For a number of years there has been an annual Interdepartmental Services Agreement between the Employment and Human Services Department (EHSD) and the District Attorney's Office (DA) to ensure the investigation and prosecution of fraud in CalWORKS, GA, CalFresh (formerly Food Stamps), IHSS and other assistance programs. Such an agreement is required by State regulations. In order to accomplish the duties and tasks under this agreement, the DA has established the Public Assistance Fraud Unit within the office's Special Operations section. The Fiscal Year 2011-2012 agreement provides funding for one fulltime attorney and one to one and one-half investigators.

In Fiscal Year 2007-2008, the D.A. Public Assistance Fraud Unit was staffed by two fulltime attorneys and two fulltime investigators. However, due to budget restraints suffered by both the District Attorney's Office and EHSD, and the retirement of a Senior Inspector, the staff of the Unit was reduced to one full time attorney and a part time inspector. This staff level continued through most of Fiscal Year 2010-2011. It is hoped that additional funding can be obtained to eventually increase the staffing to, at least, pre-2008 levels.

The Public Protection Committee (PPC) of the Board of Supervisors has requested periodic reports from EHSD and the D.A. demonstrating a high level of commitment to investigating and prosecuting public assistance and IHSS fraud cases. This report covers both the operation of the EHSD Early Fraud Unit and the D.A. Public Assistance Fraud Unit and is in response to that request. The report provides a brief statement on the fraud detection, referral and investigative processes as well as statistical summaries for fiscal year 2010/2011.

## **EHSD WELFARE FRAUD INVESTIGATION PROCEDURES**

Citizens can report suspected public assistance fraud by calling any one of the following numbers:

- California Department of Social Services Fraud Hotline: 1-800-344-8477
- Contra Costa County District Attorney's Office: (925) 957-8604
- EHSD fraud reporting line: (925) 521-5080

The above phone numbers are published on websites, in various publications and posted in EHSD offices. All complaints are forwarded to the EHSD Fraud Prevention Manager for review and appropriate action. The EHSD Fraud Manager forwards complaints to the Eligibility Workers (EWs) for their review and potential Early Fraud Investigation referrals.

All requests for investigations are initiated by EWs via the EHSD Early Fraud Intranet referral system. Referrals are reviewed by the Fraud Prevention Manager and assigned to EHSD Early Fraud Investigators for investigation.

Completed investigations are reviewed by the Fraud Prevention Manager and returned to the EWs for appropriate actions. When fraud is found, the EW assigned the case takes action, including:

- Denying the case
- Discontinuing the case
- Reducing benefits
- Referring the case for overpayment computation and collection

Completed investigations by the EHSD Early Fraud Division that identify potential long term fraud are referred to the District Attorney's Office for further investigation.

## **IN-HOME SUPPORTIVE SERVICES FRAUD AND QUALITY ASSURANCE PLAN**

EHSD's In-Home Supportive Services (IHSS) prepares an Annual Quality Assurance/Quality Improvement (QA/QI) Plan that addresses how EHSD will utilize information obtained through State mandated QA activities to improve the quality of the IHSS program and enhance the IHSS assessment process. Part of the QA function is to perform specific reviews that will improve the quality of the IHSS program. These functions include conducting home visits, desk reviews and other data element comparisons.

Through reviews and referrals, possible fraud is identified for review and investigation. The current process combines the efforts of the EHSD QA staff, the Public Authority and DA staff. IHSS QA staff has worked closely with the DA since the beginning of the Quality Assurance Program. Reports of potential fraud can also be reported to several sources as follows:

State Hotline Number: 1.800.344.3477

State Fraud by e-mail: [FraudHotline@dss.ca.gov](mailto:FraudHotline@dss.ca.gov)

EHSD Quality Assurance and Fraud: 925.363.3671

The State Budget Act of 2009 provided additional funding for the purpose of fraud prevention, detection, referral, investigations and additional program integrity efforts related to the IHSS program. This enhanced funding cannot be used to fund prosecutions. This funding has been available for several fiscal years and may be available for Fiscal Year 2011/12.

To receive this additional funding, the California Department of Social Services (CDSS) requires that Counties develop a plan between the Welfare Department and DA and that this plan be approved by the Board of Supervisors. We are currently waiting for instructions from the state on the requirements for the plan for this year. Once the plan is approved and funding received, the additional State funding will be used to enhance current efforts of the DA investigations unit and the EHSD Quality Assurance Social Workers.

#### **D.A.'S PUBLIC ASSISTANCE AND IHSS FRAUD INVESTIGATION/PROSECUTION UNIT**

The deputy district attorney assigned to the D.A.'s Public Assistance Fraud Unit for Fiscal Year 2010-2011 was originally assigned to the Unit in 2007. She had more than twenty years of experience as a prosecutor at that time and had tried approximately 150 jury trials. Said trials involved murder, aggravated and sexual assaults, and public assistance fraud. As the supervising attorney for the Public Assistance Unit, she supervised the second attorney assigned to the Unit (when it was fully staffed), reviewed and filed criminal complaints, conducted all aspects of each criminal case within the Unit including the preliminary hearing and jury trial. In addition, she supervised the investigative and clerical staff, and communicated regularly with the EHSD investigative and non-investigative staff. She was rotated to another part of the D.A.'s Office on July 15, 2011.

The deputy district attorney currently assigned to the Public Assistance Fraud Unit had previously supervised the D.A.'s Workers' Compensation Fraud Unit for ten years. He has more than twenty-seven years of experience as a prosecutor. He has tried in excess of sixty jury trials, approximately over half of which were felony jury trials. Said trials involved attempted murder, aggravated assault, major drug crimes, and the entire range of other criminal charges. He has also handled all aspects of criminal

prosecution, including law and motion matters, grand jury proceedings, preliminary hearings, etc. Along with experience in the criminal arena, he has extensive experience in using the civil courts to enforce the laws of this state when he spent several years in the Special Operations Unit of the District attorney's Office where major and consumer fraud crimes are prosecuted both criminally and civilly.

In Fiscal Year 2010-2011, the assigned Unit Senior Inspector had over thirty-eight years experience as a law enforcement officer and as an investigator in criminal cases. For the past four years he had been with the District Attorney's Office as a Senior Inspector for the Public Assistance Fraud Unit. His previous experience included ten years with the Alameda County District Attorney's Public Assistance Fraud Unit, and twenty-five years as an Inspector and Officer with the San Francisco Police Department. During his career he has investigated crimes ranging from homicides, aggravated assault, arson, and robberies. He has investigated over three hundred cases of public assistance fraud in Contra Costa and Alameda Counties. During the course of his career, he has testified in thousands of cases in court, and is considered an expert in the fields of homicide investigation and firearms. As the Unit's Senior Inspector, he regularly coordinates his investigations with the assigned deputy district attorney and communicates regularly with the EHSD investigative and non-investigative staff. He initially screens all fraud referrals from EHSD.

An additional one-half time Senior Inspector was assigned to the Unit and began on May 2, 2011. He has 26 years experience as a sworn peace officer. In addition to the Contra Costa County District Attorney's Office, he has served as a Deputy Sheriff with the Contra Costa County Sheriff's Office and worked as a Police Officer for the San Pablo Police Department for almost two years. He regularly coordinates his investigations with the assigned deputy district attorney and communicates regularly with the EHSD investigative and non-investigative staff.

The majority of referrals to the DA Public Assistance Fraud Investigative Unit are from EHSD. The cases selected for investigation are prioritized based on a number of factors, including the amount of the suspected loss or fraud, number of suspects involved, the scheme involved, whether the suspect has been previously suspected of fraud, or has other criminal activities on record, etc. The investigator then begins the investigation of the case. At a recent meeting between the DA and the Director of EHSD, agreement was reached that the threshold for potential welfare fraud cases referred to the DA would be lowered to \$3,000 from the previous threshold of \$5,000. This change is expected to result in a large increase in requests for DA investigations and prosecutions.

- Once the D.A. Inspector has completed the investigative report, it is submitted to the deputy district attorney for review. If criminal charges for Public Assistance Fraud are filed under the following provisions:
- 10980 Welfare & Institutions Code - Unlawfully Obtaining Public Aid
- 487 Penal Code - Grand Theft (for IHSS cases)
- 118 Penal Code - Perjury

Depending upon the nature of the case, suspects who are charged may either be sent a Notice to Appear in court or have a warrant issued for their arrest.

Defendants that have been convicted have received sentences involving the following:

- Time in prison or jail, ranging from a few days to several years (not all defendants receive custodial time as this is generally dependant on the amount of the loss and prior criminal record.)
- Probation (for jail sentences) up to five years, or parole (for State prison sentences)
- Community Service hours-generally 20 to 360 hours
- Restitution and fines
- Work programs

### **STATISTICAL REPORTS**

Statistical Report for fiscal year 2010/11 is attached and covers the following:

- Early Fraud Investigations
- Overpayments Investigations Unit
- District Attorney Public Assistance Fraud Investigations
- District Attorney Prosecutions and Convictions

The statistics used in these reports were extracted from the California State Department of Public Assistance (DPA) Form 266, Fraud Investigation Activity Reports. These reports are submitted to the California State Fraud Bureau on a monthly basis.

### **CONCLUSION**

The DA and EHSD have a long-term relationship that is solidified annually in a written agreement. The two Agencies have an excellent and cooperative working relationship. It is our shared goal that our joint efforts will be fruitful in addressing the issue of fraud in public assistance programs so that the services and resources of these programs are properly used to assist those who truly need these benefits, and to protect the federal, state and local funding that supports these safety net programs.

Contributors to this report include:

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