

Resolution No.



**AIR-26967**

**BOARD OF SUPERVISORS**

**Consent**

**Other Actions**

**Meeting Date:** 09/20/2016

**Time (Duration):**

Response to Grand Jury Report No.1608, "Welfare Fraud Investigation in Contra Costa County."

**Submitted For:** David Twa, County Administrator

**Department:** County Administrator **Division:** Health & Human Services

**Noticed Public Hearing:** No **Official Body:** Board of Supervisors

**Presenter/Phone, if applicable:** David Twa **Audio-Visual Needs:**

**Handling Instructions:** **District:** All Districts

**Contact, Phone:** Allison Picard, (925)  
335-1096

**Information**

**Recommendation(s):**

APPROVE the response to Grand Jury Report No.1608, "Welfare Fraud Investigation in Contra Costa County" and DIRECT the Clerk of the Board to forward the response to the Superior Court no later than September 20, 2016.

**Fiscal Impact:**

No fiscal impact, this is an informational report.

**Background:**

On June 14, 2016, the County received 2015-16 Civil Grand Jury Report No.1608, "Welfare Fraud Investigation in Contra Costa County." The report was received by the Board of Supervisors and subsequently referred to the County Administrator on the July 12, 2016 Board of Supervisors agenda (Item no. C.129) who prepared the attached response that specifies:

- Whether the respondent agrees, or disagrees wholly or partially with each finding;
- If the respondent disagrees with a finding, a statement explaining the portion of the finding that is disputed and the reasons for the disagreement;
- Whether each recommendation has been either: implemented; not yet been implemented; will not be implemented and why; or requires further analysis with an explanation of the scope and anticipated time frame.

**Consequence of Negative Action:**

In order to comply with statutory requirements, the Board of Supervisors must provide a response to the Superior Court no later than September 20, 2016 (90 days after receipt). The Board must take action no later than the September 20, 2016 meeting in order to comply with the statutory deadline.

**Children's Impact Statement:**

Not Applicable

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**Budget Information**

*Information about available funds*

Budgeted:       Funds Available:       Adjustment:       Amount Available:  
Unbudgeted:       Funds NOT Available:       Amendment:

**Account Code(s) for Available Funds**

1:

**Fund Transfers**

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**Attachments**

GJ 1608

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**BOARD OF SUPERVISORS RESPONSE TO GRAND JURY REPORT 1608:  
WELFARE FRAUD INVESTIGATION IN CONTRA COSTA COUNTY**

**FINDINGS** – *California Penal Code Section 933.5(a) requires a response to the designated findings of the Grand Jury.*

**F1. There is an estimated backlog of 2,300 welfare fraud cases being processed in the fall of 2015.**

Response: Respondent agrees with the finding. The Employment and Human Services Department (EHSD) continues to focus on clearing the backlog.

**F2. Approximately 300 welfare fraud cases have been released for review to the DA from July through December 2015.**

Response: Respondent disagrees with the finding. As of December 2015, 115 cases had been referred to the DA.

**F3. Although the amount of money distributed by EHSD in the three main programs is roughly \$185 million annually, the County only pays \$4.4 million of this amount, while the remainder of these benefits is paid for by the federal and state government.**

Response: Respondent agrees with the finding. The three main programs being CalFRESH, CalWORKS and In Home Supportive Services (IHSS).

**F4. The ratio of recovered money to total payments was less than 1 percent in 2014 and 1.87 percent in 2013.**

Response: Respondent agrees with the finding. The recovery percentage is correct but the amount cited in the report of \$1,170,629 is incorrect. The amount that was reported to the State for the period of July 1, 2014 to June 30, 2015 was \$2,685,684.

**F5. The lack of staff to process suspected fraud cases is one of the primary reasons Contra Costa County did not recover more monies from welfare fraud in 2013 and 2014.**

Response: Respondent agrees with the finding. However, as of August 2016 this unit is at full staffing.

**F6. Contra Costa County has the third lowest welfare fraud referral rate in the nine county Bay Areas and is at one-third of the statewide rate.**

Response: Respondent disagrees with the finding. While the information on the fraud referral rate may be correct, county to county comparisons are not accurate indicators. There are a number of

factors that influence fraud referrals such as staffing, caseload size, whether or not the county has an early fraud prevention program, and the various county practices and approaches regarding fraud referral efforts. Contra Costa County's efforts to detect and prevent early fraud contributes to the low rate of fraud referrals.

**F7. There are currently two Welfare Fraud Investigators and one Welfare Fraud Investigator Supervisor.**

Response: Respondent agrees with the finding.

**F8. EHSD is authorized to fill five Welfare Fraud Investigator positions.**

Response: Respondent agrees with the finding.

**F9. The County has difficulty hiring and retaining Welfare Fraud Investigators.**

Response: Respondent disagrees in part with the finding. Retaining investigators has not been a problem, as historically, voluntary retirement has been the reason for most of the vacancies. Welfare Fraud Investigators are safety positions and, in addition to a requirement of possessing a Peace Officer Standards and Training (POST) certification, they must pass a full background check, and psychological and physical examinations which is a more rigorous selection process than for most County employees. Even when there is a sufficient pool of candidates, the POST requirements and the background process eliminates a significant number of candidates.

**F10. EHSD and HR have been unsuccessful in filling three Welfare Fraud Investigator positions over the past 18 months.**

Response: Respondent agrees with the finding. EHSD has five (5) authorized positions. At the time the Grand Jury conducted its review, only two positions were filled. Since that time, EHSD has hired one investigator and has two additional candidates in background checks. EHSD expects to have a full complement on board by mid-October 2016.

**F11. The main reason the County has difficulty hiring and retaining Welfare Fraud Investigators is that a potential candidate with POST certification can receive better pay by becoming a police officer or a deputy sheriff instead of a Welfare Fraud Investigator.**

Response: Respondent disagrees with the finding. Service retired or medically retired peace officers with POST certification have been a source but are not the only applicants for these positions. In the recent hiring process, candidates applied with POST certifications that were working in other non-peace officer County positions. As stated in F9, retaining investigators has not been a problem, and historically, voluntary retirement has been the reason for most of the vacancies.

**F12. As a practical matter, the County is limited to hiring retired or medically retired police officers with POST certification for Welfare Fraud Investigators.**

Response: Respondent disagrees with the finding. See F11.

**F13. With the backlog of approximately 2,300 referrals, EHSD hired two (2) temporary Overpayment Unit workers to assist the four (4) current full-time Overpayment Unit workers clear the backlog.**

Response: Respondent disagrees with the finding. The department hired three (3) temporary County retirees and has authorized overtime to other qualified staff to assist with the backlog.

**F14. Each temporary Overpayment Unit worker is limited to working no more than 1000 hours per year in that position.**

Response: Respondent disagrees with the finding. While there are no hours limitations on non-retirees for temporary appointments, the County monitors this activity as it is not intended for long term workload coverage. However, County policy does limit most retirees to no more than 900 hours in a fiscal year and the Public Employee Pension Reform Act (PEPRA) limits covered retirees to 960 hours annually.

**F15. County policy prohibits Welfare Fraud Investigators from carrying handguns while conducting unannounced home visits, even in dangerous areas of the County.**

Response: Respondent disagrees with the finding. It is not County, but EHSD policy that does not permit Welfare Fraud Investigators to carry handguns. The work of the Investigators is to follow up on information that is part of the eligibility determination process which requires visits with families in their homes, in schools and at places of employment. Experience has demonstrated that families receiving public assistance do not present a danger or threat to investigators.

**F16. Some counties hire fraud investigative staff in non-peace officer classifications, called Investigative Technicians, to perform office work processing case documentation and allowing fraud investigators to conduct more UHVs and field investigations.**

Response: Respondent agrees with the finding.

**F17. Investigative Technicians are not required to be POST certified and are paid at a lower salary range than Welfare Fraud Investigators.**

Response: Respondent agrees with the finding.

**F18. The County is reimbursed by CDSS for approximately 80 percent of the labor cost in administering CalWORKs, CalFresh, and In-Home Supportive Services and investigating fraud related to these programs.**

Response: Respondent disagrees in part with the finding. The County does not receive reimbursement for investigating In-Home Supportive Services fraud.

**F19. The County does not receive reimbursement for the cost of the administrating General Assistance and investigating potential fraud related to those benefits.**

Response: Respondent agrees with the finding.

**F20. Because the State shares 12.5 percent of monies recovered for the overpayment of benefits related to CalWORKs, CalFresh, and In-Home Supportive Services, hiring additional fraud investigation officers and Overpayment Unit Workers would cost the County little.**

Response: Respondent disagrees with the finding. The 12.5 percent is the fraud recovery incentive for CalWORKs overpayment collections. It does not include CalFresh or IHSS overpayment

collections. For FY 2014/2015, EHSD received \$50,957 from the California Department of Social Services (CDSS) as their fraud recovery incentive payment. This amount of fraud recovery incentive would not support the hiring of additional staff. These funds are invested in fraud prevention and investigator training and support.

**RECOMMENDATIONS** - California Penal Code Section 933.05(b) requires a response to the designated recommendations of the Grand Jury.

**R1. The Board of Supervisors should consider, in order to make the position more attractive with higher net pay, offering non-benefitted status to candidates for Welfare Fraud Investigator, after reviewing the legal and policy-related considerations of doing so.**

Response: The recommendation will not be implemented. These are represented positions and any change to pay or benefits would require meeting and conferring with their union. Additionally, Contra Costa County has an independent retirement system and participation in that benefit is not discretionary pursuant to State law. There are currently no permanent County employees without benefits.

**R2. The Board of Supervisors should consider allowing Welfare Fraud Investigators to wear firearms at their personal discretion while conducting UHVs.**

Response: The recommendation will not be implemented. The safety of all department staff is of the utmost concern to the County and EHSD. Because the Welfare Fraud Investigators must be POST certified, EHSD is assured that they have been trained and have met the requirements for basic peace officer safety. Additionally, the Welfare Fraud Investigators have other options they can utilize to ensure their safety prior to conducting an unannounced home visit (UHV). The Welfare Fraud Investigators obtain information on the adult household members reported living in the home via the California Law Enforcement Telecommunications System (CLETS) to determine if their safety may be at risk. The Investigators also have access to other information about members of the household. If the Investigators determine that there is a safety issue they are able to take additional precautions such as contacting local law enforcement in advance to accompany them or take another investigator to the UHV. The Investigators can also make arrangements to complete the investigation with a scheduled in-office appointment. The Welfare Fraud Investigators do not perform the same duties that a sworn peace officer might perform such as apprehension, arrest, or serving warrants. By routinely utilizing the above precautions and their training, the need for a firearm is not present.

**R3. To allow the Welfare Fraud Investigators time to perform more in-field investigations such as UHVs, the Board of Supervisors should consider directing EHSD to create a position classification for Fraud Investigation Technicians or Aides, who would prepare and process case documentation.**

Response: The recommendation will not be implemented. While some counties use this classification it does not currently exist in Contra Costa County. The use of highly trained Welfare Fraud Investigators has proven to be a successful model that results in significant avoided fraud cost. Considering the use of other classifications is a good idea but at this time, any additional staffing needs can be met using already existing County classifications.

**R4. The Board of Supervisors should consider directing EHSD to hire two full time EHSD Overpayment Unit workers to fill the currently open positions.**

Response: The recommendation has been implemented. EHSD hired two full-time Fraud/Overpayment Unit Workers to fill the vacancies in the unit. The unit is now fully staffed with six full-time Fraud/Overpayment workers.

**R5. As EHSD fraud referrals increase, and as funding is identified and made available, the District Attorney should consider increasing the number of Senior Inspectors and Deputy DAs so that investigations can also be done on Electronic Benefit Transfer card fraud and internal fraud within EHSD.**

Response: EHSD has implemented this recommendation. A number of safeguards are in place, including separating duties to ensure that the same staff member cannot open a case and issue benefits on that case. In addition the Department has staff dedicated to internal monitoring of the various programs and transactions that process benefit payments using a number of monitoring tools. When internal fraud is suspected, staff interacts with the District Attorney's Senior Inspector and Deputy District Attorney to complete the investigation and pursue an appropriate course of action, including prosecution. As noted in the report, two (2) internal fraud cases have been referred to the DA in the past three years.

In addition to the monitoring done by EHSD and referrals to the DA, fraud in CalFresh (Food Stamps) is also monitored by the State and the U.S. Department of Agriculture (USDA). They monitor various Internet sites for possible sales of CalFresh benefits and Electronic Benefit Transfer (EBT) cards. They also monitor transactions with merchants to detect suspicious transactions involving EBT cards. The State also investigates suspected IHSS fraud. All these agencies maintain reporting mechanisms for the public to report suspected fraud. EHSD fully cooperates with the DA, USDA and CDSS.