



M E M O R A N D U M



To: Public Protection Committee of the Board of Supervisors **Date:** September 26, 2016

From: Kathy Gallagher, Director, Employment and Human Services Department
 Mark Peterson, District Attorney

Subject: Joint Report on Welfare Fraud Prevention, Detection and Investigation

The Employment and Human Services Department (EHSD) and the District Attorney (DA) are jointly presenting this annual report to the Public Protection Committee (PPC) of the Board of Supervisors that demonstrates our continuing efforts to prevent, investigate, and prosecute welfare fraud in public assistance programs. This report provides information and summaries on fraud detection and prevention, fraud referrals, staffing, investigative processes, prosecutions, EHSD collection and recovery activities, as well as statistical data for fiscal year 2014/2015.

California county welfare departments are mandated by the California Department of Social Services (CDSS) to establish and maintain written agreements with the local District Attorney for the investigation and prosecution of alleged fraud in the CalWORKs Program (including Childcare and Welfare to Work) and the CalFresh (Food Stamps) Program. Our County also includes the General Assistance Program in the agreement. In Contra Costa County, the DA's Public Assistance Fraud Unit has this responsibility. For fiscal year 2014/2015, the \$414,000 agreement provided for one full-time Deputy District Attorney, one full-time Senior Investigator, one half-time clerk and a vehicle. The agreement also provides training for the legal and investigative staff dedicated to this Unit.

CDSS is the state agency responsible for the administration of the CalWORKs and CalFresh programs. CDSS provides program oversight and guidance to counties through regulations, policies, and reports. To assist counties in detecting fraud, welfare case information is matched against databases from the State Employment Development Department (EDD), Franchise Tax Board (FTB), Internal Revenue Service (IRS) and Social Security Administration (SSA) to ensure that recipients have reported all income, assets, and resources that may affect eligibility. When there is a discrepancy between information reported by the recipient and information in these databases, a report is generated. EHSD receives these reports on a monthly, quarterly, and annual basis from CDSS. When it has been determined that a client's case record may have discrepancies, EHSD staff seek clarification of the discrepant information from the client. If additional clarification is needed or if a worker suspects potential fraud, a referral for investigation is made to the EHSD Social Services Senior Welfare Fraud Field Investigators. If fraud is found and the client received more benefits than they were eligible to receive, an overpayment is computed and the client may be referred to the DA to investigate and prosecute for potential fraud. The combination of the reports and the well trained EHSD and DA staff working together have helped to prevent or significantly shorten the duration of fraud as well as prosecute those that commit fraud.

WELFARE FRAUD PREVENTION, DETECTION, INVESTIGATION AND REFERRAL PROCEDURES

Under Division 20 of California Social Services Regulations, larger counties are required to maintain a Special Investigations Unit (SIU) with staff that are trained and qualified to prevent, detect and investigate welfare fraud. This requirement is met by the agreement with the DA and the process in place in EHSD to detect early fraud and quickly respond to concerns of potential fraud raised by eligibility staff or the public.

Fraud Prevention: As required by CDSS, all EHSD eligibility program staff and first-line supervisors receive annual training in the prevention and detection of fraud. The training is designed to assist the eligibility staff to be diligent and aware of fraud indicators. Eligibility Workers are trained to substantiate the accuracy of the information reported by clients during the process of applying or reapplying for benefits. If an Eligibility Worker suspects fraud during the intake interview or at any point during the intake process, an electronic referral through the EHSD Early Fraud Investigation (EFI) referral system is made to EHSD's Welfare Fraud Unit. The Social Services Senior Welfare Fraud Field Investigators assigned to this unit are stationed in the district offices and are available to assist the eligibility staff as necessary. By having this direct access, either party can readily discuss and quickly resolve any issues or concerns that arise.

Fraud Detection and Investigation: The EFI referral system is automated and greatly speeds up reporting of suspected fraud. It allows the Eligibility Worker (EW) to provide all the needed information to open a fraud investigation case. Once a referral is made by the EW, the EHSD Social Services Fraud Prevention Supervisor reviews and assigns the case to an EHSD Social Services Senior Welfare Fraud Field Investigator for investigation. EHSD Welfare Fraud Field Investigators are professionals and are required to maintain Peace Officer Standards and Training (POST) certification. When the field investigation is complete, the information is returned to the EW for necessary action. Depending on the outcome of the referral and the status of the case, the EW of record takes quick and appropriate case action, including:

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

The above actions by EHSD Eligibility Workers result in substantial savings and cost avoidance as applicants determined ineligible are denied benefits and recipients determined to be engaging in potentially fraudulent activities are discontinued. By having the investigators readily accessible, it provides for a rapid response to identify, mitigate and stop any fraud.

Citizen reporting of suspected public assistance fraud also aids in fraud prevention and detection. Citizens can call any one of the following numbers or email the California Department of Social Services, EHSD or the Deputy District Attorney:

California Department of Social Services Fraud Hotline: 1-800-344-8477
California Department of Social Services: <mailto:FraudHotline@dss.ca.gov>
Contra Costa County Deputy District Attorney: <mailto:KMcCosker@contracostada.org>
EHSD website for fraud information and reporting: ehsd.org
EHSD and DA fraud reporting line: (925) 521-5080

During the period covered by this report, EHSD received 413 phone calls to the Fraud Reporting line, 8 complaints of potential fraud from the EHSD website, and 15 complaints from CDSS. The DA received 9 potential fraud complaints.

When information comes in through one of the sources above, the EHSD Social Services Fraud Overpayment Supervisor reviews the information. When this review indicates that further action is needed, the Eligibility Worker (EW) and the Eligibility Work Supervisor (EW Supervisor) of record are notified about the information received. The EW follows up on the reported information and if appropriate, refers the case to the Fraud Prevention Unit or to the DA. The EW then advises the EHSD Social Services Fraud Overpayment Supervisor on the disposition of the complaint. All actions are taken very quickly to prevent erroneous issuance of benefits or to quickly stop benefits if the case has been granted.

Below are the Early Fraud Investigation referral statistics for FY 2014/2015.

EARLY FRAUD INVESTIGATIONS (EFI)

REFERRALS	CASH	CalFresh
Investigation Referrals Received	197	341
Investigations Completed	152	287
Fraud Found	75	194
Fraud Not Found	77	93
INVESTIGATION RESULTS		
Denials	23	52
Discontinuances	30	69
Benefits Reduced	12	39
Fraud Found no financial impact	10	34

Each year CDSS provides information on Fraud Cost Savings (cost avoidance) that result from early prevention and detection of fraud activities. While the official report for fiscal year 2014/2015 has not been issued, CDSS is projecting the savings for Contra Costa County as follows:

CalWORKs Fraud Cost Savings: \$231,803
CalFresh Fraud Cost Savings: \$132,132
Total: \$363,935

These avoided costs document the effectiveness of the continued and combined efforts of EHSD’s Eligibility Workers and EHSD’s fraud prevention and investigation processes in preventing benefits from going to ineligible individuals and families.

Referral to the DA: When long term or intentional fraud is suspected, EHSD refers cases over \$3,000 or other cases by mutual agreement to the DA for investigation and prosecution in accordance with the written agreement between the departments. A summary of the number of cases referred to the DA and the results is reported below. Referral of cases to the DA is continuous as cases are identified.

Administrative Disqualification Hearings: EHSD has been successful in moving forward with the implementation of the Administration Disqualification Hearing (ADH) process required by CDSS. The ADH process is an alternative to prosecution and imposes a disqualification penalty as well as repayment on individuals who have allegedly committed an Intentional Program Violation (IPV). The ADH process is cost effective and will be used to address cases that are below the threshold for referral to the DA or cases that do not meet the evidentiary parameters to be considered for prosecution. A client suspected of committing an IPV will be asked to attend an Administrative Disqualification Hearing or can be offered an ADH waiver. If it is found that the

client intentionally violated the program, a disqualification penalty is imposed and the client is required to repay the benefits that were fraudulently received. The disqualification penalty period ranges from six months to permanent disqualification depending on the number of violations.

Similar to the ADH process is the Disqualification Consent Agreement (DCA) process the DA utilizes. The DCA process provides the DA the ability to establish IPV's in cases of deferred adjudication. The DCA is a viable and important option and can be presented to the individual in cases in which the determination has been made that the case warrants prosecution by the DA.

D.A.'S PUBLIC ASSISTANCE FRAUD INVESTIGATION/PROSECUTION UNIT

The Public Assistance Fraud Unit is housed within the Office of the District Attorney Special Operations Division, where insurance fraud, environmental crimes, and both major and consumer fraud are prosecuted both criminally and civilly. For fiscal year 2014/2015, Senior Inspector, Todd Almason, continued in his assignment.

Deputy District Attorney, Sophea Nop has been with the office for 6 years and was a Deputy District Attorney in San Joaquin County for 2.5 years prior. She was actively involved in the evaluation and investigation of cases since her transfer into the unit in early 2014. However, because the caseload was insufficient to occupy a full-time deputy, the cases were handled in court by the DA's general felony teams, with Ms. Nop making filing decisions on the few new cases referred.¹

Senior Inspector Almason has over thirty-four years of experience as a law enforcement officer and an investigator in criminal cases. His previous experience includes eight years with the Santa Clara County Department of Social Services, assigned to the Special Investigations Unit; and seventeen years with the Santa Clara County District Attorney's Office, over ten of which were in the Public Assistance Fraud Unit. He is able to bring his experience and knowledge of Federal, State, and local public assistance laws and regulations to bear on any case he is assigned. As the Senior Inspector, he regularly coordinates his investigations with the assigned Deputy District Attorney and communicates regularly with EHSD investigative and non-investigative staff. He meets with and assists EHSD staff, as requested, with issues related to the prevention, detection, investigation, and prosecution of public assistance fraud. He also initially screens all fraud referrals received from EHSD.

The cases selected for DA investigation are prioritized based on a number of factors that may include the amount of the suspected loss or fraud, the number of suspects involved, the nature of the scheme involved, and whether the suspect has been previously suspected of fraud or has other criminal activities on their record. The threshold for filing potential public assistance fraud cases referred to the DA continues to be \$3,000. If criminal charges for Public Assistance Fraud are filed, the charges are generally filed under the following code sections:

- Welfare & Institutions Code § 10980 – Unlawfully Obtaining Public Aid
- Penal Code § 487 – Grand Theft (for IHSS cases)
- Penal Code § 118 – Perjury
- Penal Code § 72 – Fraudulent Claims

¹ Deputy District Attorney Kristina McCosker who has prior experience in the Public Assistance Fraud Unit has been assigned to the Unit as of January 1, 2016 to build and handle a regular caseload.

Depending upon the nature of the case, the sophistication of the alleged fraud, and the criminal history of the individual, the DA generally requests that charged defendants be sent a Notice to Appear in Court or requests that the Court issue a warrant for their arrest. Defendants who have been convicted have received sentences including 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 dependent 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 ranging from 20 to 360 hours
- Restitution and fines
- Work programs

EHSD STAFFING

EHSD is currently recruiting for three (3) Social Services Senior Welfare Fraud Field Investigators and anticipates the vacancies will be filled in the very near future. EHSD has also filled vacancies in the Fraud Overpayment Unit to ensure the timely referral of cases to the District Attorney. Most of the costs for fraud related positions are covered by State allocations.

To assist with the backlog of overpayment calculations reported at a previous Public Protection Committee meeting, EHSD was able to hire additional temporary staff and authorize overtime hours for staff in the Fraud Overpayment Unit. The backlog has been greatly reduced, is on the way to elimination and current work is on track. For the period of July 1, 2015 through June 1, 2016, over 300 cases have been referred to the DA for investigation and prosecution.

COLLECTION EFFORTS

Federal and State regulations mandate that counties attempt to collect and recover welfare benefit overpayments due to fraud, inadvertent client errors, and administrative errors. The responsibility of the collection activities was transferred back to EHSD in October 2010, when the Office of Revenue Collection (ORC) was disbanded. The EHSD collection efforts continue to be handled by the Collections Unit and Fiscal Division. Clients currently receiving aid are subject to grant reduction to repay debts. CalWORKs and CalFresh debts are computed by the Eligibility Worker via the CalWIN system or by the Fraud Overpayment Unit. Former clients are subject to collection action. When collection action is necessary, EHSD uses the activities listed below:

Voluntary payment – Clients are sent a series of letters for demand of payment. Payment plans can be established. Clients make payments by check, money order, or credit card.

Welfare Intercept System (WIS) – This program is administered by the California Department of Social Services Fraud Bureau for CalWORKs and CalFresh debts. CalWORKs debts are eligible for Franchise Tax Board (FTB) offset/intercept. CalFresh debts are eligible for both FTB and U.S. Treasury/Internal Revenue Service (IRS) offset/intercept. Repayments are collected by the state FTB or federal IRS from tax refunds or other payments and are used to offset the debts.

Court-ordered Debt (COD) Program – Court-ordered debts are fines, fees, and restitution orders imposed by a court. EHSD has a small number of COD accounts that the Probation Department continues to administer.

The Collections and Recovery Summary Report for fiscal year 2014/2015 is also attached and provides the impact to County revenue.

STATISTICAL REPORTS

The information for the statistical reports is extracted from the California Department of Public Assistance (DPA) Form 266, Fraud Investigation Activity Reports. These monthly reports are completed by EHSD with input from the DA staff and submitted to the State Fraud Bureau. The attached report for fiscal year 2014/2015 covers the following:

- Fraud Overpayment Unit
- District Attorney Public Assistance Fraud Investigations and Prosecutions

CONCLUSION

EHSD and the DA's office have a long and effective working relationship. We continue to work together to prevent, investigate and prosecute public assistance fraud.

Contributors to this report include:

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STATISTICAL OUTCOMES
FY JULY 1, 2014 – JUNE 30, 2015

FRAUD OVERPAYMENT UNIT

	CASH	CalFresh
Overpayment Computation Referrals Received	131	770
Number of Overpayments Established	10	70
Dollar Amount of Overpayments	\$39,875	\$138,377
CalWORKs/CalFresh Combo Cases Referred for Prosecution	13	
Public Assistance CalFresh Cases Referred for Prosecution	0	
Non Assistance CalFresh Cases Referred for Prosecution	2	

DISTRICT ATTORNEY WELFARE FRAUD INVESTIGATIONS

INVESTIGATIONS	CASH	CalFresh	TOTAL
Referrals Received*	15	20	35
Investigations Completed**	15	16	31
PROSECUTIONS			
Cases Filed for Prosecution	3	4	7
Active Cases as of 6-30-2015	5	4	9
Convictions	13	16	29
	Public Assistance		
Court Ordered Restitution	\$131,067.97		

* **As indicated in the report above**, referrals to the DA for the current fiscal year to date (July 1, 2015 through June 1, 2016) exceed 300 cases. This is due to the efforts to reduce the backlog of pending cases in the Fraud Overpayment Unit.

** An investigation completed can include referrals from prior fiscal years.

EHSD COLLECTION & RECOVERY SUMMARY FY July 1, 2014 – June 30, 2015

Program Type	Cash Collection	Grant Reduction & EBT Repayments	Annual Totals
CalWORKs	\$306,284	\$585,355	\$891,639
CalFresh	836,288	916,085	1,752,373
IHSS	14,970	0	14,970
General Assistance	13,097	13,605	26,702
Totals	\$1,170,639	\$1,515,045	\$2,685,684

IMPACT TO COUNTY REVENUE

Most of the cost of aid issued by Contra Costa for CalWORKs, CalFresh, and IHSS is funded with Federal and/or State revenue. All collection recoveries, with the exception of General Assistance are returned to the funding source, with the County retaining a small percentage.

For CalWORKs, 2.5% of all collection recoveries reduce the county benefit costs. An annual incentive is also paid to the county based on recoveries. For CalFresh, a local retention amount that is shared equally with the State is calculated based on the recoveries (cash and non-cash) by error type. The local retention rates are 0% for Administrative Error, 10% for Inadvertent Household Error and 17.5% for Intentional Program Violation. The county share of IHSS is determined by an established maintenance of effort. Collections do not impact the county share. Since General Assistance is all county funds, 100% of collection recoveries are returned to the county.