

**A REPORT BY
THE 2015-2016 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1608

**Welfare Fraud Investigation
In Contra Costa County**

Looking Hard Enough?

APPROVED BY THE GRAND JURY:

Date: June 14, 2016

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ACCEPTED FOR FILING:

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JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1608

Welfare Fraud Investigation in Contra Costa County

Looking Hard Enough?

TO: Contra Costa County Board of Supervisors

SUMMARY

Contra Costa County (County) dispenses public assistance (CalFresh, CalWorks, and In-Home Support Services) for the State of California Department of Social Services (CDSS). General Assistance is a separate program, funded by the County, for unemployed, low-income residents. In 2015, the County distributed about \$185 million for all public assistance programs through the Employment and Human Services Department (EHSD) to roughly 10,000 recipients. This Grand Jury investigation reviews the role of welfare fraud investigations in these County administered benefit programs. The report finds that Contra Costa's welfare fraud detection, prosecution and overpayment collection underperforms compared to efforts statewide and in six of the other eight Bay Area counties, primarily due to insufficient fraud investigation and EHSD overpayment staff as well as insufficient DA staff dedicated to welfare fraud prosecution. Fraud identified in 2015 amounted to \$1,170,529. This Grand Jury recommends hiring additional Welfare Fraud Investigators, creating and staffing a new position of Welfare Fraud Investigator Technician, as well as hiring overpayment workers, a DA Welfare Fraud Inspector, and an additional Deputy District Attorney.

METHODOLOGY

The Civil Grand Jury reviewed the public assistance programs of Contra Costa County as administered by EHSD. The Grand Jury interviewed personnel in EHSD, representatives of the District Attorney's office, and of the California Welfare Fraud Investigators Association. The California Department of Social Services (CDSS) was contacted by email, and addresses were obtained for statewide and county public assistance databases. We also researched State and County reports on the issue. For background, previous Grand Jury Investigations on Welfare Fraud prepared by Monterey, Los Angeles and Santa Clara County Grand Juries were also reviewed.

BACKGROUND

The federal, state and county governments are responsible for assisting individuals and families in need. They provide public assistance through a variety of programs. Each program has particular economic qualifications for benefits eligibility. These programs include CalFresh (food stamps), CalWorks (welfare), In-Home Supportive Services, and General Assistance. The integrity of public assistance programs is monitored through fraud detection and fund recovery. These efforts to reduce welfare fraud over the years have yielded millions of dollars in net cost savings annually to the citizens of California and protect the interests of those in genuine need.

The California Department of Social Services (CDSS) is the state agency responsible for providing aid, services and protection to needy children and adults in California through CalWorks, CalFresh, and In-Home Supportive Services. The management and distribution of these benefits is delegated to California's fifty-eight counties. In Contra Costa County, the Employment and Human Services Department (EHSD) operates the programs.

The federal government provides most of the funding for CalWorks and In-Home Supportive Services and the County contributes 2.5 percent. The U.S. Department of Agriculture funds CalFresh. The table below, "Employment & Human Services Assistance Paid", shows the total amount of public assistance in Contra Costa County. MediCal, which is administrated directly by the State of California, is another state program.

In 2015, the total cost of the three programs in the County – CalWorks, CalFresh and General Assistance – was approximately \$185 million, of which the County paid \$4.4 million which includes the County's 2.5% contribution for CalWorks payments. The previous two years, total benefits dispensed were slightly higher.

The number of recipients on CalWorks and General Assistance has fluctuated over the years. Based on the table below, the number of recipients is declining.

Employment & Human Services Assistance Paid

Source: CalWIN Management Report MRD036R
and California Dept. of Social Services Reports DFA 256 (amounts line 20) & DFA 296 (counts line 8)

Period	CalWORKs Benefits Paid	CalWORKs Average Monthly Count of Cases Paid	CalFresh Benefits Paid	CalFresh Average Monthly Count of Cases Paid	General Assistance Benefits Paid	General Assistance Average Monthly Count of Cases Paid	Medi-Cal Average Monthly Count Active Cases
Jan-Dec 2013	\$ 56,519,654	12,514	\$ 129,430,213	33,392	\$ 3,698,720	1,650	59,287
Jan-Dec 2014	\$ 57,945,170	10,351	\$ 127,270,179	35,299	\$ 3,685,970	1,606	84,717
Jan-Dec 2015	\$ 55,564,522	9,686	\$ 126,578,008	35,801	\$ 3,034,746	1,390	120,460

County Share of Cost

CalWORKs	2.5%
General Assistance	100%

CDSS reimburses the counties for distribution and administration costs (which includes fraud investigation and prosecution) of CalWORKs, CalFresh, In-Home Supportive Services and MediCal, but not General Assistance. In Contra Costa County, EHSD tracks staff time spent on each of these programs for reimbursement by CDSS. In 2015, EHSD entered into a contract with the DA’s office for \$414,000 to investigate and prosecute welfare fraud cases. CDSS reimburses this cost. Last year, the County received approximately \$3 million in administrative reimbursements, as well as recovered fraud overpayments and court ordered fraud reimbursements. CDSS uses a formula to calculate the maximum annual administrative reimbursement, which depends on the amount of public assistance disbursed by the County.

To give counties an incentive to operate welfare fraud programs, the California Welfare and Institutions Code, Section 11486(j) provides that each county receive an amount equal to 12.5% of the actual amount of aid repaid or recovered by a county, as a result of fraud detection. This is an increase from the previous 2.5% incentive. Recovered funds are the amounts collected on errors caused by clients and include recoveries from grant reductions, closed case debts, and tax intercept collections. In fiscal year 2015, the County recovered \$144,691.

The passage of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (popularly called Welfare Reform) enhanced the availability of electronic verification systems, which decreased the incentives for attempted welfare fraud. Federal and state agencies use these databases to provide data matches of CalWORKs and CalFresh recipients to local agencies including EHSD. This “data mining” indicates if recipients are receiving income, have jobs, or have experienced other changes that could affect their eligibility for benefits. These reports also allow EHSD to determine the accuracy of income and/or family composition statements reported by recipients. This information helps prevent or quickly identify fraud, and can aid in the prosecution of those that commit fraud. The result of such timely action is to

shorten the duration of any fraudulent payments, as well as to recoup overpayments, either through garnishment of future benefit payments or collection actions by EHSD.

EHSD manages the accurate distribution of public funds through the following steps:

1. Intake;
2. Fraud prevention/detection (including the Special Investigative Unit); and
3. Collections by the Overpayments Unit.

Fraud prosecution is the responsibility of the District Attorney's Office. The following is a description of each process and the services provided.

The Intake Process – Fraud Early Detection

Intake occurs when an applicant makes an application for public assistance. In Contra Costa County, an applicant may apply at one of EHSD's four regional offices:

- Richmond
- Hercules
- Antioch
- Pleasant Hill

An applicant first meets with an eligibility worker (EW) who checks the applicant's information (name, age, number of children, income, residence, etc.) and verification supplied (e.g. social security number, citizen or legal alien status, current residence or intention to reside in the County). The EW then crosschecks the information with the Income and Eligibility Verification System (IEVS), a statewide system required by federal law and maintained by CDSS. IEVS identifies persons who may be ineligible for benefits because they:

- Have failed to report or misreported their actual earnings;
- Are ineligible for cash aid or food stamps due to receipt of Supplemental Security Income;
- Are receiving unemployment or disability insurance benefits
- Are receiving cash aid or food stamp benefits concurrently in two or more counties or cases;
- Have been convicted of a drug-related felony;
- Are not U.S. citizens; and
- Are criminal fugitives.

Provided that the applicant is eligible, the EW then determines if there is a need for immediate assistance – cash can be provided by the next day or food stamps can be made available within 3 days – and calculates the maximum amount of cash and/or food stamps. To receive cash assistance the applicant must be fingerprinted. An

electronic benefit card is issued or money can be directly deposited into the applicant's bank account. DMV and prison felons' reports are also checked. Applicants are also required to sign a waiver allowing the County to inspect their residence and employment to verify application information.

EHSD Fraud Prevention and Detection

Fraud prevention and detection are an integral part of EHSD's overall management of public assistance programs. The County, through EHSD, has primary responsibility for determining eligibility and computing grant amounts. If fraud is suspected, and discrepancies are found in the information supplied on an application, then benefits are denied.

Fraud occurs when an applicant knowingly and willfully makes a false statement, suppresses or withholds information to receive aid, or prevents a denial, discontinuance, or reduction of aid. To reduce the chance of fraud, the intake unit performs the following steps:

- Inform the applicant of what information is needed to determine eligibility and why that information is needed;
- Review rights and responsibilities of participating in the program with the applicant;
- Explain to the applicant that any change in status or income, e.g. new job, must be promptly reported and complete information be given to the Overpayment Worker;
- Document the applicant's level of understanding of reporting responsibilities;
- Advise the applicant of the penalty for making false statements or that failing to report relevant information might affect eligibility; and
- Require the applicant to provide fingerprints (when necessary) and permission for EHSD Welfare Fraud Investigators to conduct an unannounced home visit (UHV) to verify eligibility and income.

EHSD has a number of methods to detect fraud. EHSD eligibility staff are trained to ask questions and verify the information in each initial application and renewal. Every case is reviewed by a supervisor prior to approval. When there is a concern that information provided in connection with a CalWorks, CalFresh or General Assistance application may not be accurate or fraud is suspected, the EW initiates an electronic referral through the Early Fraud Investigation (EFI) referral system, an automated system that speeds up reporting of suspected fraud. If the EW suspects that eligibility was fraudulently established, the case, after review by a supervisor, is forwarded to the Overpayment Unit. The Overpayment Unit is responsible for completing a fraud investigation, and, if evidence indicates that the overpayment exceeds \$2,500, forwarding the case to the DA after review by the Fraud Prevention Supervisor.

The Overpayment Unit takes some or all of the following actions depending on the status of the case:

- Denying the case (benefits);
- Discontinuing the case;
- Reducing benefits; and
- Referring the case for overpayment computation and collection.

Applicants who are determined to be ineligible are prevented from collecting benefits and recipients who are determined to have engaged in fraud are terminated from future aid benefits.

Special Welfare Fraud Investigative Unit (SIU)

Each of California's fifty-eight counties has the authority to determine the responsible department for the Special Welfare Fraud Investigative Unit (SIU). Twenty-seven SIUs are located in county welfare/health services departments, twenty in district attorney's offices, nine in a cooperative between a welfare/health services department and the DA's office and two in the sheriff's office.

The SIU in Contra Costa County historically was housed in the District Attorney's Office until the creation of an Early Fraud Investigation Unit in EHSD in 1993. As a result of this change, the County now has two separate groups of Welfare Fraud Investigators, and is the only Bay Area County to do so.

Significant changes have occurred, starting in 1993, which affect the organization and operation of SIUs. Some of the major issues that the County's SIU has had to deal with in conducting investigations include budget and staff reductions, welfare reform, regulation changes, newer, more advanced computer systems (i.e., CalWin), electronic benefit assistance (debit card), and client reporting responsibility changes.

Welfare Fraud Investigators employed by EHSD receive fraud alerts from the EW of suspicious information about eligibility and/or income. The investigators research the applicant's information through the IEVS, EHSD records, DMV, social security administration, and contact with past employers. The most important match listings used are the Integrated Fraud Detection Wage Match (IFD 440) and the Beneficiary Earning Exchange Record (BEER). Both provide recent wage information that alert investigators to a recipient's unreported employment. If there is sufficient cause, EHSD will list the case for an unannounced home visit (UHV). Once listed, the Welfare Fraud Investigators have up to thirty days to conduct an unannounced home visit to the applicant's stated address. The investigators may also perform field investigations such as talking to neighbors and past employers.

To maintain program integrity, CDSS requires each county to conduct UHVs. Other means of investigation, if the resident is not home when investigators arrive, may involve questioning neighbors, accessing DMV information, and checking at the local

schools and previous employers. Current procedures require counties to send out notification letters and at least two more UHV attempts. CDSS regulations dictate that if the Welfare Fraud Investigators cannot perform an UHV within sixty days, the benefits can be terminated with overpayment to be collected.

Several years ago, CDSS regulations required renewals or reporting to the EHSD field office to be done quarterly, but this requirement has been relaxed. Recipients are now only required to check in and renew their benefits annually. Since reporting is relatively infrequent, making fraud more difficult to detect, some recipients may avoid reporting new jobs or changes in the household.

San Diego County (SDC) has been using a more aggressive approach to fraud prevention and detection since 1997. SDC's approach is referred to as Project 100 (P-100). As part of SDC's eligibility verification process for CalWorks applicants, even if there is no obvious reason for denial, the Welfare Fraud Investigator makes an unannounced home visit. EHSD has chosen not to implement a similar program.

Another type of fraud involves grocery stores fraudulently cashing Electronic Benefit Transfer (EBT) card balances without physically selling groceries. An additional scam involves recipients claiming that they have lost their EBT cards and asking for replacement cards. Pursuing EBT fraud perpetrators is difficult. To gather evidence to pursue prosecution against them entails elaborate surveillance and sting operations with multiple officers. This type of fraud detection and investigation is usually performed by state investigators working for CDSS or the federal government. However the federal government has recently asked counties for assistance.

Citizens also may report suspected public assistance fraud by telephone or email to CDSS, EHSD or the DA's Office. During 2014-2015, EHSD received 414 phone calls to its fraud reporting line and 14 complaints of potential fraud via the email address on its website.

Collections by the Overpayment Unit

Federal and state regulations mandate that counties collect and recover welfare benefits overpayments due to fraud, inadvertent client errors, and administrative errors. The County's Office of Revenue Collection previously performed this duty, but was disbanded in October 2010, and collection activities were transferred to EHSD Overpayments Unit. EHSD may reduce payments to current welfare recipients to repay debts, and initiate collection actions against former recipients. EHSD initiates collection actions through the following:

- Voluntary payment –Current or former recipients are sent a series of letters demanding repayment:
 - Payment plans can be established,
 - Payments may be made by check, money order, or even 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) intercepts,
 - CalFresh debts are eligible for both FTB and U.S. Treasury/IRS offset,
 - Repayments are collected by the State FTB or Federal IRS from tax refunds or other payments and used to offset the debts.
- Court-ordered Debt (COD) Program – Court ordered debts are fines, fees, and restitution orders imposed by a court.

County District Attorney's Efforts to Combat Fraud in Public Assistance Programs

The Contra Costa County District Attorney's Office receives investigative referrals from various sources, including community complaints, allied law enforcement agencies, and the overpayment unit of EHSD. When an EHSD referral appears to exceed \$2500 in fraud, it is forwarded by the EHSD Fraud Manager to the Public Assistance Fraud Unit at the District Attorney's Office for review and possible further action.

The DA Senior Inspector assigned to a public assistance fraud case works with the EHSD Fiscal Compliance Accountant to conduct a joint investigation. At the conclusion of the investigation, the findings are submitted to EHSD and the Deputy District Attorney assigned to public assistance fraud, as appropriate, for consideration of administrative action and/or criminal prosecution.

In the past year, the Public Assistance Fraud Unit of the DA's Office received approximately 300 referrals. The senior inspector in the DA's Office verifies the information in the case file and, if deemed necessary, collects additional information. For various reasons referrals are sometimes closed at the investigation stage, including a lack of evidence, and/or possible defenses to such charges. All cases that proceed to prosecution are investigated and then reviewed by the assigned attorney.

A single senior inspector is assigned to the Public Assistance Fraud Unit, along with one Deputy District Attorney who reviews prosecution referrals to determine whether to file criminal charges. As part of the job description, the DA Inspector in Contra Costa County wears a firearm while on duty. The one senior inspector is currently overloaded with backed-up cases and is unable to initiate internal fraud investigations or participate in EBT fraud investigations with other agencies.

People charged with welfare fraud are usually charged with perjury for lying on the eligibility form. If the amount of fraud exceeds \$950, it is considered a felony. Most of those charged with welfare fraud choose to plead to a lesser charge rather than risk having a felony conviction. At that point, benefits are terminated and the County begins collection proceedings to collect overpayments.

Internal Fraud

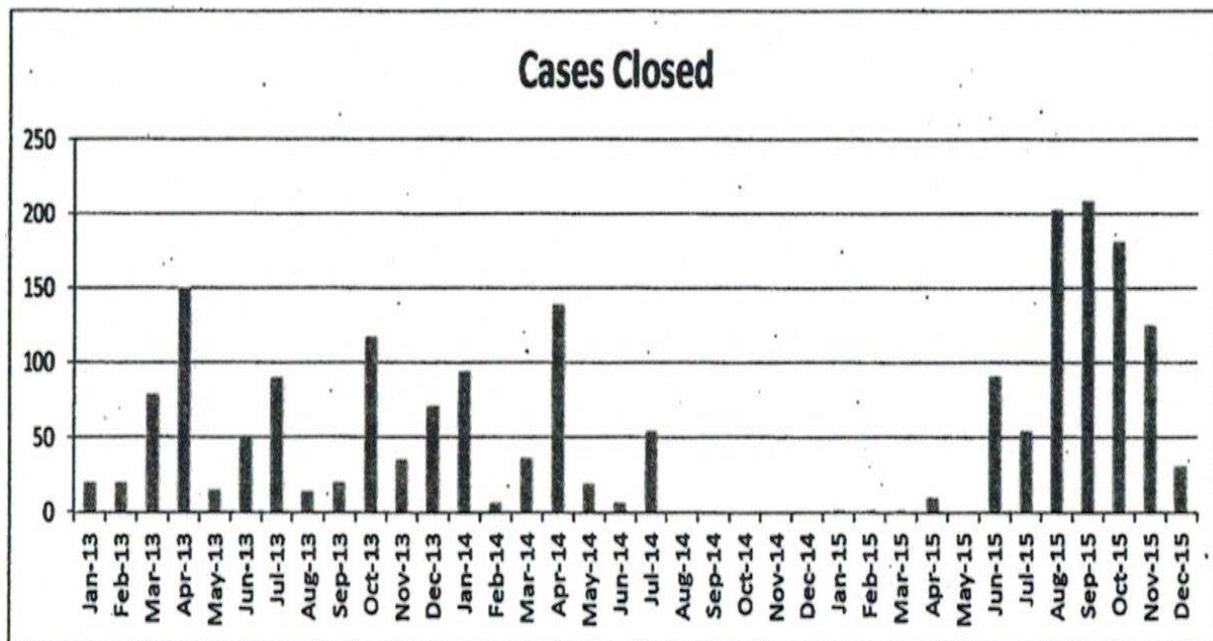
Internal fraud can occur when an EHSD employee conducts or facilitates illegal or fraudulent activity. Examples of internal fraud include intake workers setting up fictitious recipients to collect benefits or issuing EBT cards for their own use. While internal fraud is not the subject of this report, two cases of internal fraud were detected in the past three years.

A Los Angeles County grand jury investigation in 2008-2009 reported an internal fraud rate of 6.5 referrals per 1000 employees. The County only has 17 employees in the EHSD intake section, who help to process approximately \$185 million in benefits annually. While there is no evidence of fraud being committed by these employees, this does not mean that EHSD should not maintain safeguards to protect the integrity of the process.

Typical internal security procedures implemented by counties include multiple and random reviews of approved eligibility cases, and a three step security procedure in the loading and disbursement of EBT cards.

DISCUSSION

It was brought to the Grand Jury's attention that the flow of welfare fraud cases referred to the District Attorney's Office dropped precipitously in 2014. Below is a graph of EHSD monthly welfare fraud cases closed from January 2013 to December 2015.



As reflected in the chart, the number of welfare fraud cases referred to the District Attorney's Office dropped precipitously in 2014, raising the following questions:

1. What was the cause of the case referral slowdown?
2. Was there a plan to remedy the situation?
3. How does Contra Costa County's welfare fraud detection, prevention and prosecution program compare with other Bay Area counties?

The three tables below show the public assistance recovery totals for the past three years. The tables include court ordered restitution and repayment from successfully prosecuted cases.

July 1, 2014 to June 30, 2015	Program Type	Cash Collection	Grant Reduction & EBT Repayments	Annual Totals
	CalWorks	\$147,793	\$158,491	\$306,284
	CalFresh	\$234,364	\$601,925	\$836,288
	IHSS	\$14,960	--	\$14,960
	General Assistance	\$13,097	--	\$13,097
	RECOVERY TOTALS	\$410,214	\$760,416	\$1,170,629

July 1, 2013 to June 30, 2014	Program Type	Cash Collection	Grant Reduction & EBT Repayments	Annual Totals
	CalWorks	\$317,099	\$584,598	\$901,697
	CalFresh	\$1,135,966	\$1,441,387	\$2,577,353
	IHSS	\$21,358	--	\$21,358
	General Assistance	\$12,032	\$15,143	\$27,175
	RECOVERY TOTALS	\$1,486,455	\$2,041,128	\$3,527,583

July 1, 2012 to June 30, 2013	Program Type	Cash Collection	Grant Reduction & EBT Repayments	Annual Totals
	CalWorks	\$281,673	\$541,014	\$822,687
	CalFresh	\$983,961	\$1,354,840	\$2,338,801
	IHSS	\$23,657	--	\$23,657
	General Assistance	\$9,551	\$13,206	\$22,757
	RECOVERY TOTALS	\$1,298,842	\$1,909,060	\$3,207,902

Total recovery for CalWorks, CalFresh, IHSS and General Assistance totaled \$1,170,629 in the year July 1, 2014 to June 30, 2015. The total recovery in the previous year July 1, 2013 to June 30, 2014 was \$3,527,583. This is a drop of about two thirds. To compare the level of welfare fraud efforts, the recovery to payment ratio was 0.68% in 2014. In 2013, it was 1.87% or roughly three times the 2014 recovery rate.

For the period July 1, 2013 to June 30, 2014, a total of \$3,527,583 in fraudulent payments were recovered based on 1,019 referrals during this period. Of this amount, the County received \$253,860 of the recovery, \$226,685 was returned to the County by CDSS and \$27,175 was directly recovered in General Assistance benefits.

The below tables compare County welfare fraud detection to statewide totals, the other eight Bay Area counties, and San Diego County for the three monthly periods of July 2015, January 2015 and July 2014. These periods were selected as “snap shots” of fraud investigation performance. January and July were chosen to take into account seasonal differences. They are six months apart because counties may double count fraud cases listed in consecutive months. CDSS has an extensive fifty-six column list of welfare fraud statistics. These tables are used to compare fraud investigation performance, not to expose any particular performance statistic. The data demonstrate the poor performance of the County welfare fraud detection during these periods.

In July 2015, the percentage of applications set aside for investigation was roughly 15% statewide. San Diego County and the nine Bay Area counties had the following rates of investigation:

- Contra Costa County, 4.5%;
- Alameda County, 28%;
- Napa County, below 2%;
- Marin County, below 2%;
- San Francisco County, 25%;
- Santa Clara County, 23%; and
- San Diego County, 56%

The California Association of Welfare Fraud Investigators considers San Diego to have the most effective fraud control program in California.

In January and July 2015, the statewide percentage of applications pulled for investigation was about 15%. The County’s percentage, at less than 5% for these two months, was well below the statewide percentage of applications investigated.

Eight of the nine counties of the Bay Area have Special Investigative Units (SIU) within their social services departments. Contra Costa County maintains a separate welfare fraud investigation team in the District Attorney’s Office. Unlike Contra Costa County, which has staff in the District Attorney’s Office dedicated to investigating and prosecuting fraud, the District Attorney’s Offices of other Bay Area counties assign welfare fraud cases generically. According to the California Association of Welfare Fraud Investigators, SIUs are typically situated in the urban counties’ social services departments, while in the Central Valley; the SIUs are in the District Attorney’s office. The SIU for San Diego County’s P100 program, which has the highest investigation rate in the state, is in the District Attorney’s Office.

County Comparison of Welfare Fraud Efforts July 2015

	Fraud Unit Type ²	Total Investigations Available column 5	Completed Investigations Column 6	% Applications Investigated	Fraud Referrals Column 6a	% Fraud Investigation	Benefit Adjustment ³ Columns 8+9+10	% Benefit Adjustment
Statewide July 2015	n/a	153861	22659	14.7%	7520	4.9%	2140	1.4%
Alameda County July 2015	County Social Services	6786	1876	27.6%	310	4.6%	114	1.7%
Marin County July 2015	Health and Human Services	1544	29	1.9%	18	1.2%	3	0.2%
Napa County July 2015	Social Services	626	9	1.4%	7	1.1%	0	0.0%
San Francisco City/County July 2015	Human Services Agency	1290	322	25.0%	250	19.4%	53	4.1%
San Mateo County July 2015	Aging and Adult Services DHCS	807	154	19.1%	75	9.3%	36	4.5%
Santa Clara County July 2015	Social Services Agency	761	176	23.1%	137	18.0%	0	0.0%
Solano County July 2015	Health and Social Services	3686	476	12.9%	215	5.8%	52	1.4%
Sonoma County July 2015	Human Services Dept.	673	149	22.1%	141	21.0%	1	0.1%
San Diego County July 2015	District Attorneys Office	3357	1872	55.8%	500	14.9%	393	11.7%
Contra Costa County July 2015	Social Services EHS	2731	123	4.5%	57	2.1%	26	1.0%

NOTES:

1. Column numbers refer to data columns of the CDSS monthly welfare fraud database (www.cdss.ca.gov/research/)
2. Fraud Unit Type refers to the supervisory county department of the welfare fraud investigation unit (SIU)
3. Investigations closed and benefits adjusted

County Comparison of Welfare Fraud Efforts January 2015

	Fraud Unit Type ²	Total Investigations Available column	Completed Investigations Column 6	% Applications Investigated	Fraud Referrals Column 6a	% Referrals for Fraud	Benefit Adjustment ³ Columns 8+9+10	% Benefit Adjustment
Statewide Jan 2015	n/a	155040	24560	15.8%	7935	5.1%	4278	2.8%
Alameda County Jan 2015	County Social Services	6551	1648	25.2%	443	6.8%	138	2.1%
Marin County Jan 2015	Health and Human Services	1591	38	2.4%	17	1.1%	7	0.4%
Napa County Jan 2015	Social Services Dept.	546	7	1.3%	6	1.1%	2	0.4%
San Francisco City/County Jan	Human Services Agency	3943	186	4.7%	115	2.9%	77	2.0%
San Mateo County Jan 2015	Aging and Adult Services DHCS	862	157	18.2%	64	7.4%	36	4.2%
Santa Clara County Jan 2015	Social Services Agency	6826	186	2.7%	115	1.7%	35	0.5%
Solano County Jan 2015	Health and Social Services	2936	539	18.4%	295	10.0%	109	3.7%
Sonoma County Jan 2015	Human Services Dept.	1658	225	13.6%	86	5.2%	13	0.8%
San Diego County Jan 2015	District Attorneys Office	3561	2089	58.7%	712	20.0%	546	15.3%
Contra Costa County Jan 2015	EHSD (Social Services)	2362	69	2.9%	32	1.4%	25	1.1%

NOTES:

1. Column numbers refer to data columns of the CDSS monthly welfare fraud database (www.cdss.ca.gov/research/)
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Comparison of County Welfare Fraud Efforts July 2014

	Fraud Unit Type ²	Total Investigations Available Column 5	Completed Investigations Column 6	% Applications Investigated	Fraud Referrals Column 6a	% Referrals for Fraud	Benefit Adjustment ³ Columns 8+9+10	% Benefit Adjustment
Statewide July 2014	n/a	149021	29518	19.8%	9433	6.3%	5420	3.6%
Alameda County July 2014	County Social Services	6266	1189	19.0%	319	5.1%	106	1.7%
Marin County July 2014	Health and Human Services	1573	57	3.6%	19	1.2%	13	0.8%
Napa County July 2014	Social Services Dept.	527	50	9.5%	25	4.7%	3	0.6%
San Francisco City/County July 2014	Human Services Agency	5750	191	3.3%	128	2.2%	100	1.7%
San Mateo County July 2014	Aging and Adult Services DHCS	797	190	23.8%	78	9.8%	59	7.4%
Santa Clara County July 2014	Social Services Agency	689	227	32.9%	169	24.5%	35	5.1%
Solano County July 2014	Health and Social Services	2557	570	22.3%	260	10.2%	77	3.0%
Sonoma County July 2014	Human Services Dept.	2673	319	11.9%	165	6.2%	1	0.0%
San Diego County July 2014	District Attorney's Office	4265	2652	62.2%	870	20.4%	673	15.8%
Contra Costa County July 2014	EHSD (Social Services)	2151	118	5.5%	45	2.1%	30	1.4%

NOTES:

1. Column numbers refer to data columns of the CDSS monthly welfare fraud database (www.cdss.ca.gov/research/)
2. Fraud Unit Type refers to the supervisory county department of the welfare fraud investigation unit (SIU)
3. Investigations closed and benefits adjusted

These tables contain monthly data from the state's fifty-eight counties showing raw fraud reported to CDSS. Fraud referrals are cases forwarded to the District Attorney's office for prosecution. The "benefits adjustment" column refers to those cases where fraud was suspected, but the recipients are still eligible and their benefits were appropriately adjusted. The County has been underperforming in welfare fraud detection, prosecution and collection, particularly in the summer of 2015, due to some of the following factors:

- The County has an inadequate number of Welfare Fraud Investigators. While there are five approved positions, currently only two of those are filled. The position requires Police Officer Standards and Training (POST) certification. However, candidates who have POST certification prefer to work as police officers or deputy sheriffs instead of as Welfare Fraud Investigators, which pays less. While the salary of Welfare Fraud Investigators is on par with other counties such as Alameda, Los Angeles, and Sacramento, the pension and health care contribution of \$18 per \$100 of salary is approximately double the average contribution of other California counties. Only Napa County had a higher pension contribution of \$22 per \$100 of salary. Additionally, those with POST certification who are willing to take these investigator positions are usually retired from police work or medically retired and already drawing a pension. The last Welfare Fraud Investigator who left County employment in early 2015 was a retired police officer. Currently, there are no investigators located in the Richmond EHSD offices, while ideally there should be two.
- Penal Code section 832 requires welfare investigators to be POST certified and trained for arrest and search procedures. Since Contra Costa County is a POST academy member, Welfare Fraud Investigators can take certification classes and use the Sheriff's training facilities in Pittsburg to maintain their POST certification. Nevertheless, the County Board of Supervisors adopted a policy, which has been in force for at least 12 years, prohibiting these investigators from wearing firearms when they perform unannounced home visits.
- Investigative staff in non-peace officer classifications. Investigative technicians or aides can be used to perform office work processing and case documentation while allowing Welfare Fraud Investigators to conduct more UHVs and field investigations. The investigative technicians or aides are not required to be POST certified, and are paid substantially less than Welfare Fraud Investigators. Furthermore, the labor and benefit costs related to this position are eligible for almost full reimbursement by CDSS. To fund this position, one of the five (5) approved Welfare Fraud Investigator positions could be changed to an investigative technician or aide position. As noted previously, 3 of the 5 openings are vacant.

In the summer of 2015, approximately 300 cases were referred to the DA's office with the help of the two temporary overpayment workers hired in the spring of 2015. Due to

concerns about statute of limitations lapsing on CalFresh cases, which have a statute of limitations of 4 years, the oldest cases were prioritized. (CalWorks and General Assistance do not have a time limit for prosecution.)

Approximately 2,300 fraud cases are still pending for possible referral to the DA's office. There is an apparent discrepancy in the number of cases between EHSD and the DA's Office due to the way referrals and cases are counted by the different agencies. For example, when a referral is sent over for alleged Cash Aid and Food Stamps fraud, EHSD counts it as 2 referrals, while the DA's Offices counts it as one because it was committed by one person. Not all cases are prosecuted as some cases do not have sufficient evidence to pursue.

In fiscal year 2015, the 300 cases yielded \$1.3 million in recovered benefits; by extrapolation, the pending 2,300 cases could yield \$10 million. However, many of the initial 300 cases were high priority cases, and many, if not most, of the pending 2,300 cases are low yield in comparison, which could make potential loss recovery less than \$10 million.

Welfare Worker Training

CDSS mandates that new eligibility workers receive a minimum of 8 hours of fraud prevention and detection training when hired and 4 hours of refresher training annually. The refresher training is required for eligibility supervisors as well. Currently, the annual Fraud Prevention and Techniques refresher training is conducted by UC Davis to maintain continued expertise of staff and supervisors to perform this work. Training time and individual training requirements of each employee are tracked by EHSD.

In-Home Supportive Services

In 2013, CDSS published a Uniform State Protocol for In-Home Supportive Services (IHSS) cases that changed the investigation and prosecution processes of these cases statewide. This protocol mandates that any suspected IHSS fraud cases in excess of \$500 be referred to the California Department of Health Care Services (DHCS) for investigation. However, the protocol permits a county to enter into a Memorandum of Understanding with DHCS to allow the county to investigate this type of fraud. The most common forms of fraud are providers knowingly billing for services not performed or billing for care of more beneficiaries than they actually serve.

CDSS 2006 Fraud Prevention and Detection Study

In 2006, CDSS published a ten-year statistical study on fraud prevention and detection activities in the CalWorks and CalFresh programs. The data indicates that efforts to maintain program integrity and measurements of those efforts differed significantly among counties.

Recurring themes for promising approaches and “Best Practices” were found during the study. However, the list of recommendations in the study is not included as many of them have already been implemented or are not applicable to the County. The list of findings is reported below:

- Open communication between the Special Investigation Units, DA, County eligibility workers, and fraud administrative staff fosters positive working relationships and teamwork;
- Training Strengthens the Quality of Referrals:
 - Periodic training keeps investigators updated on changes in eligibility criteria,
 - Providing fraud training for eligibility staff more frequently than annually maintains increased awareness of fraud prevention and detection techniques,
 - Training activities enhance working relationships between fraud and eligibility staff and allow for a change in the focus of investigations when a current fraud trend is discovered.
- Technology Supports Communication;
- Early Fraud Detection Saves Money:
 - Early fraud detection provides the best opportunity to maximize resources and avoid the higher costs of long-term investigations, prosecutions, and collection activities,
 - Several counties have innovative programs that may include home visits and fraud prevention interviews as part of the application process. Examples include San Diego’s Project 100 and Riverside’s Fraud Review and Early Detection (FRED) program,
 - Some counties use fraud staff in non-peace officer classifications, such as Investigative Technicians and Investigative Aides, to perform fraud prevention activities.
- Recording civil judgments and enforcing civil judgments on real property sales appears to be a successful way to collect; and
- Referral of overpayments to a private law firm or agency for collection is another collection approach that works in Los Angeles County.

DA Fraud Investigations

The Public Assistance Fraud Unit of the DA’s Office investigates referrals it receives from EHSD. For some of these cases, the DA’s Office decides not to pursue some of these referrals for reasons that include lack of evidence, possible defenses to such charges, or expiration of the statute of limitations to prosecute the fraud. Approximately 200 pending cases are currently being processed by the DA’s Office. The District Attorney Welfare Fraud Prosecution staff is working at capacity. Having an additional senior inspector could expand the District Attorney’s investigations into welfare fraud, EBT trafficking and internal fraud violations.

EHSD Referrals to the DA

In the summer of 2015, the District Attorney contacted EHSD and expressed concern over the lack of fraud referrals from EHSD to the DA's Office. EHSD explained that due to a personnel shortage, there was a backlog of approximately 2400 cases awaiting overpayment review by EHSD staff. Such reviews are generally the first step in the identification of fraud.

Ten (10) years ago, there had been 20 EHSD employees who did such reviews: ten employees handling general case reviews (intake), and ten employees exclusively handling the overpayment reviews required to file a criminal case. The two units were consolidated into the current IEVS Unit. As of May of 2015, this unit had five full time employees and two part time specialists.

In addition, EHSD did not refer potential prosecutions where they determined that there had been administrative errors by their staff. Such errors included the failure of EHSD to take action when an applicant/recipient reported information that would have materially impacted the applicant/recipient's grant of aid, and also when EHSD could not locate documents which might be needed in the prosecution (e.g. copies of identification and signed documents).

As previously discussed, having EHSD fraud investigative staff in non-peace officer classifications, such as investigative technicians or investigative aides, to perform office work processing case documentation might have avoided some of these administrative errors. Furthermore, most of the labor costs and benefits associated with this position are eligible for reimbursement by CDSS.

To remedy these problems, the DA's Office and EHSD agreed that cases of administrative error should be referred to the DA's Office in certain circumstances. EHSD also is considering seeking Board of Supervisors approval to create two specialist positions dedicated to overpayment calculations. These would replace the two temporary workers who were hired to assist in processing the backlog.

Conclusion

Public assistance programs in the County totaled about \$185 million in benefits in 2015 for roughly 10,000 recipients. Fraud detection efforts to weed out overpayments, fraud, and criminal activity have been underperforming compared to efforts statewide and in six (6) other bay area counties. Fraud referral cases declined to below 1 percent in 2015. This coincided with the drop in the number of welfare fraud workers and Welfare Fraud Investigators at EHSD.

In July 2015, the County took the first step to improve welfare fraud prosecution by sending 300 referrals to the DA's Office. Since the number of welfare fraud referrals

has also increased, EHSD is actively recruiting additional Welfare Fraud Investigators and two additional full time staff in the overpayments unit.

Most of the salaries and benefits of Welfare Fraud Investigators, EW, overpayment workers, and DA staff come at little cost to the County because they are reimbursable by CDSS. In addition, CDSS has increased the incentive for fraud recovery to 12.5 percent of all fraud recovered in the CalWorks, CalFresh and In-Home Supportive Services programs. Through these mechanisms, the County could fully staff welfare fraud programs at little cost.

The issue of Public Assistance Fraud is an important one for the County, and one which must be addressed to ensure that public funds are awarded only to needy and qualified recipients, and that those who steal public funds are properly punished. Investigation and prosecution sends a message to the county taxpayers that their taxes are being used for problems that need to be fixed. Finally, when the County acts as a welfare fraud watchdog, criminals and people willing to commit fraud are discouraged from doing so.

FINDINGS

- F1. There is an estimated backlog of 2,300 welfare fraud cases being processed in the fall of 2015.
- F2. Approximately 300 welfare fraud cases have been released for review to the DA from July through December 2015.
- 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 are paid for by the federal and state government.
- F4. The ratio of recovered money to total payments was less than 1 percent in 2014 and 1.87 percent in 2013.
- 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.
- F6. Contra Costa County has the third lowest welfare fraud referral rate in the nine county Bay Area and is at one-third of the statewide rate.
- F7. There are currently two Welfare Fraud Investigators and one Welfare Fraud Investigator Supervisor.
- F8. EHSD is authorized to fill five Welfare Fraud Investigator positions.

- F9. The County has difficulty hiring and retaining Welfare Fraud Investigators.
- F10. EHSD and HR have been unsuccessful in filling three Welfare Fraud Investigator positions over the past 18 months.
- 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.
- F12. As a practical matter, the County is limited to hiring retired or medically retired police officers with POST certification for Welfare Fraud Investigators.
- 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.
- F14. Each temporary Overpayment Unit worker is limited to working no more than 1000 hours per year in that position.
- F15. County policy prohibits Welfare Fraud Investigators from carrying handguns while conducting unannounced home visits, even in dangerous areas of the County.
- 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.
- F17. Investigative Technicians are not required to be POST certified and are paid at a lower salary range than Welfare Fraud Investigators.
- 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.
- F19. The County does not receive reimbursement for the cost of the administering General Assistance and investigating potential fraud related to those benefits.
- 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.
- F21. The Senior Inspector in the DA's Welfare Fraud Investigation Unit is authorized to carry a handgun.

F22. The County DA's Office has only one senior inspector and a Deputy District Attorney assigned for welfare fraud prosecution.

F23. If the County hires more senior inspectors, they could conduct investigations into EBT card fraud, internal fraud, and in-home supportive services violations.

RECOMMENDATIONS

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.

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

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.

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

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.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Board of Supervisors	F1 - F20	R1 - R5
Contra Costa County District Attorney	F21 - F23	R5

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to epant@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
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P.O. Box 431
Martinez, CA 94553-0091