

2003-2004 SANTA CLARA COUNTY CIVIL GRAND JURY

INQUIRY INTO EARLY DETECTION OF WELFARE FRAUD

Summary

The 2003-2004 Santa Clara County Civil Grand Jury (Grand Jury) has found that Santa Clara County (County) has a very low investigation rate into welfare fraud compared with other counties in California. In San Diego County, all applicants for California Work Opportunity and Responsibility to Kids (CalWORKS) are referred for investigation after an initial screening by eligibility workers, whereas in Santa Clara County, eligibility workers refer only those applicants they suspect of fraud. Therefore, applicants for CalWORKS in this County are checked infrequently for eligibility; only 4% of County welfare applicants were referred to Fraud Early Detection (FRED) Units for investigation in the first quarter of 2003, whereas 15% were referred statewide and 38% were referred in San Diego County. Early investigation of fraud or ineligibility, and subsequent pay denials, are particularly important in welfare cases since it is difficult to recover overpayments once made.

The Grand Jury inquired into the eligibility screening processes used by the Social Services Agency (SSA) and the investigative functions of the District Attorney's Office (DA) in the County and, for comparison, San Diego County.

The Grand Jury concluded its inquiry with one finding and a recommendation that a pilot program, to refer all applicants for investigation, be implemented to identify welfare fraud early.

Background and Discussion

The California Department of Social Services (CDSS) is the state agency responsible for providing aid, services and protection to needy children and adults. CalWORKS, administered through 58 county welfare departments, is a welfare program that provides cash grants and welfare-to-work services to families whose incomes are not adequate to meet their basic needs. CalWORKS emphasizes work first. With few exceptions, adult recipients must participate in job services, training, education, or community service. Recipients are limited to five years of cash assistance and must begin community service employment after no more than 24 months on aid.

The County CalWORKS budget is funded by federal, state and county contributions in fiscal year 2003-2004 budget as follows:

(\$ millions)	Federal	State	County	Total
Benefits	\$29.0	\$48.9	\$1.3	\$79.2
	(36.61%)	(61.78%)	(1.61%)	
Administration	\$17.2	\$1.0	\$4.6	\$25.3
	(77.84%)	(4.15%)	(18.01%)	
Investigations	\$2.5	None	None	

The County's share of cost for benefits is actually 2.5% but is offset by the amount collected in child support, resulting in a net of 1.6%. There is no limit on the total amount of money available for benefits for qualified recipients. However, the state limits funding for County administration to the \$4.6 million shown.

Intake Process

The SSA Department of Employment and Benefit Services (DEBS) administers CalWORKS in the County. The first contact for an applicant seeking aid is a DEBS Customer Service Technician or Eligibility Worker (EW) who determines eligibility. The EW checks the application information (name, age, children, type of income, 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. 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.

{Note - the Federal Welfare Reform Act of 1996 imposed a lifetime ban on food stamp and welfare eligibility for people convicted of even a single drug felony. The states can opt out of the prohibition, but where it remains intact—as it does in California—it cannot be lifted, even for ex-felons who live model, crime-free lives. In California, an applicant who has committed a drug-related felony after August 22, 1996, and has been convicted after December 31, 1997, is ineligible for any financial aid.}

The EW determines if there is a need for immediate assistance—cash could be provided the next day or food stamps made available within 3 days—and determines the maximum assistance amounts for cash and/or food stamps. Before approval, the applicant for cash assistance is fingerprinted and, for food stamps, all those living in the household are fingerprinted. An electronic benefit card is issued or money can be directly deposited into the applicant's bank account.

Children's benefits are not affected by the denial or discontinuance of benefits to a parent. As noted in a San Jose Mercury News article on January 13, 2004, "When CalWORKS, the state's welfare program, was created in 1998, a bipartisan legislature insisted that children would not be punished for their parents' failures. Unlike at least 40 other states, the architects of CalWORKS chose to keep children on aid even when their parents got cut off."

Fraud Prevention

In California, fraud prevention and detection are an integral part of the overall management of public assistance programs. The County has primary responsibility for determining eligibility and computing grant amounts. If fraud is suspected, the case is referred for investigation to the Special Investigative Unit (SIU). It is the responsibility of the SIU to conduct an investigation to establish whether or not evidence exists to support a charge of welfare fraud.

According to CDSS regulations, the SSA is responsible for making all determinations as to eligibility for assistance and for establishing the amount of overpayment if ineligibility for any benefit is later found. The SSA is also responsible for preventing and discovering fraudulent actions by recipients, and for taking prompt and decisive steps to investigate any situation in which it appears that benefits are being received on the basis of incorrect or false data. When the SSA has grounds to suspect that eligibility was established due to fraud, the SSA is responsible for completing an investigation and, where evidence dictates, requesting a complaint from the DA. Fraud occurs when an applicant knowingly and willfully makes a false statement or either suppresses or withholds information to receive aid or to prevent a denial, discontinuance, or reduction of aid. To reduce the chance of fraud, the EW must:

1. Inform the applicant of what information is needed to determine eligibility and why that information is needed.
2. Review the rights and responsibilities for the program with the applicant.
3. Explain to the applicant their responsibility to promptly report correct and complete information to the EW regarding any change in status or income.
4. Document the applicant's level of understanding of their reporting responsibilities.
5. Advise the applicant of the criminal penalties for making false statements or failing to report information which might affect eligibility.

The Intake Investigation Referral process is known as Fraud Early Detection (FRED); its primary intent is to prevent fraud before it happens, but it may also reduce the number of overpayment calculations and collections. The EW refers a case to FRED when a fraud alert appears in the case file or the information provided by the applicant is clearly inconsistent or in conflict with other information known to the agency and the EW is unable to resolve this inconsistency or conflict with an explanation from the client or a third party contact.

A FRED referral is required in the following situations:

- The father is unknown for any of the children for whom aid is requested.
- The whereabouts of any of the absent parents is unknown.

- The applicant has not cooperated at any time in the past with the DA's Family Support Division.
- The absent parent's child was conceived while the family was on CalWORKS.
- Identification provided by the applicant appears to be false.

The California CDSS Manual, Section 20-007.21, states that "a Special Investigative Unit (SIU) shall be established and organized for the purpose of investigating suspected welfare fraud and suspected violations of law in connection with matters for which [County Welfare Department] CWD has responsibility. The SIU shall be a separate organization, independent of organizations performing eligibility and benefit determination functions." Under Authority and Responsibility, "the SIU shall investigate any activity, particularly during intake, which may constitute welfare fraud and have access to all CWD files, records, and personnel relevant to the investigations they conduct." Minimum personnel standards require that each supervisor and investigator be a peace officer.

Each of California's 58 counties can decide where to assign responsibility for their SIUs. According to the State Fraud Investigation Report (January—March 2003), Special Investigative Units (SIU) are located in county welfare departments (27), district attorney offices (20), a cooperative between welfare departments and DA offices (9) and sheriff offices (2).

In July 1993, in an effort to improve services, the County SSA transferred the SIU investigative responsibility for welfare fraud to the DA. A plan of cooperation was established that included the transfer of existing SIU personnel to the DA's office. The merging of the SIU staff and a number of DA investigators created the Public Assistance Fraud Division (PAFD). PAFD is comprised of three investigative units—FRED, General Fraud, and the Income and Eligibility Verification System (IEVS). FRED provides early interaction with questionable new assistance applications to determine fraud before the applicant is granted any type of benefits; General Fraud investigates complex fraud cases which require more investigation, and IEVS matches applicant/beneficiary names and social security numbers contained in various state and federal welfare files with state employment records.

In FY 2002-2003, the PAFD received 2,554 fraud referrals. Approximately 95% of fraud referrals are from SS—the remaining 5% came from a variety of sources, such as the Santa Clara County Housing Authority, community complaints, local law enforcement, and other governmental agencies.

The state tracks by county the percentage of applicants that are referred for investigation of potential welfare fraud. The 1998-99 Los Angeles County Civil Grand Jury requested an audit of their Department of Social Service fraud investigation rate—at the time, 5% compared to a median rate of 13.5% for other southern California counties, and a statewide average of 7.9%. The Los Angeles County Grand Jury's ensuing report stated there was no reason to assume that the rate of case referrals should be lower in Los Angeles County than elsewhere. The report concluded: "with proper protocols and staff training, the investigation referral rate should mirror that found in other comparable counties or the statewide average."

Comparative statistics from the CDSS 1st Quarter Report, January—March 2003 (Appendix A) shows that statewide 15% of applicants were referred to FRED. The County had approximately half the applicants for CalWORKS (6,224) as San Diego County (10,693); however, the County referred only 269 (4%) of their applicants to FRED while San Diego County referred 4,115 (38%). Evidence of fraud sustained (proven to be true) totaled 15,303 (36%) statewide, 232 (50%) in the County, and 1,517 (32%) in San Diego County. Increasing the number of referrals for investigation will result in identifying a higher number of fraudulent applications. Detecting fraud earlier, at the application stage, makes it easier to prevent or recover overpayments than after benefits are issued and cases are closed. For example, the County had 6,224 applicants in the first quarter of 2003—at a 4% rate, about 269 were referred. However, using the 15% state referral rate, about 934 would have been referred by the County. Using San Diego’s 38% rate, the number would have been 2,365 or nine times as many. If we apply the San Diego lower fraud sustained rate of 32% (as opposed to 50% in the County), about three times as many applicants would be screened out.

At a meeting with the Grand Jury, the Director of SSA stated that his department purposely does not refer large numbers of applicants to investigations like other counties, but said that other counties substantiate less fraud. He further explained that the department did spot check visits to verify information. In interviews with SSA department members, the philosophy was articulated that the preference is to give the benefit of the doubt in awarding benefits to prevent hardship to children.

The County SIU prepared a report estimating how much money was saved by FRED in fiscal year 2002-2003. Information and averages were based on data from the Social Services Agency (see Appendix B). According to the County Welfare Fraud Case Issuance Statement for the year 2002, over \$1 million dollars, representing CalWORKS overpayments, were paid on 157 cases.

San Diego County has been using a more aggressive approach to fraud prevention and detection since 1997. That approach has been designated as Project 100 (P-100). As part of San Diego’s eligibility verification process for CalWORKS applicants, even if there is no obvious reason for denial, the PAFD investigator makes a home visit to the applicant’s address and a voluntary walk-through of the applicant’s residence is requested. The investigator then reports his findings to the Eligibility Worker (EW) for the EW to evaluate the information and determine eligibility. If the information obtained by the investigator adversely affects CalWORKS, the EW sends out a Notice Of Action. If the applicant refuses to cooperate with the investigator’s interview (except for the walk-through), the investigator notifies the EW regarding the applicant’s refusal to cooperate and the EW closes the case. If an applicant wishes to withdraw his request for aid, the investigator includes that information in his response to the EW and it is the EW’s responsibility to re-contact the applicant to determine if he/she wishes to sign a withdrawal form.

Finding I

Santa Clara County has one of the lowest FRED referral rates in the state, which leads to a greater number of fraud cases not being detected, thus resulting in overpayment of benefits. Higher referral rates to FRED statewide result in a higher total number of sustained fraud cases. Savings from a greater denial of unlawful benefits could amount to millions of federal, state and county dollars.

Recommendation I

The County Social Services Agency should implement a six-month small-scale pilot program based on San Diego County's Project 100 in order to identify more applicants who provide false information and thus deny aid before benefits are issued. After the six-month pilot program, the results should be reported to the County Executive and the Board of Supervisors.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 3rd day of June 2004.

Richard H. Woodward
Foreperson

APPENDIX A

CDSS Synopsis Fraud Investigation Report

1st Quarter January - March 2003									
CalWORKS								FRED	
State & Counties	Number of Applications	CalWORKS Caseload	Fraud Referrals	% Fraud Referrals	Completed Investigations	Evidence of Fraud	% Fraud Sustained	FRED Referrals	% FRED Per Applications
Statewide	173,597	497,448	41,661	8%	43,104	15,303	36%	25,541	15%
Alameda	5,605	17,053	1,126	7%	1,277	716	56%	578	10%
Los Angeles	53,857	177,341	8,790	5%	9,379	3,281	35%	4,996	9%
San Diego	10,693	25,926	4,866	19%	4,760	1,517	32%	4,115	38%
San Francisco	1,531	6,420	569	9%	225	215	96%	65	4%
Santa Clara	6,224	12,864	380	3%	460	232	50%	269	4%

APPENDIX B

FRAUD DOLLAR AMOUNT AND PROJECTED SAVINGS TO SANTA CLARA COUNTY (FY 2002-2003)

AVERAGE FAMILY SIZE	AVERAGE TIME A FAMILY RECEIVES BENEFITS	AVERAGE CASH BENEFIT AMOUNT RECEIVED PER FAMILY
2.6	24.8 Months	\$507.44
FRAUD SAVINGS (Benefits Denied)		
24.8 months x average cash benefit amount (\$507.44)		\$12,584.52
TOTAL		\$12,584.52
FRAUD SAVINGS (Benefits Reduced)		
When benefits are reduced, one person loses benefits equaling the following amounts		
Cash benefits reduction- 24.8 months x cash benefit reduction (\$195.17)		\$4,840.22
TOTAL		\$4,840.22

(Information and averages based on data from SSA)

FRED INVESTIGATIONS

NUMBER OF CASES		ESTIMATED SAVINGS
Cases Received	1,537	
Benefits Denied/ Discontinued	449	\$5,650,449.40
Benefits Reduced	183	\$885,760.26
TOTAL SAVINGS		\$6,536,209.60

IEVS INVESTIGATIONS

	RPT 1	RPT 2	RPT 3	TOTAL
CASES RECEIVED	440	120	5	565
Cases Assigned For Investigation	118	154	82	354
Complaints Filed	24	23	50	97
Fraud Dollar Amount	\$451,000	\$203,328	\$347,055	\$1.01 Million

GENERAL FRAUD INVESTIGATIONS

	RPT 1	RPT 2	RPT 3	TOTAL
Cases Received	186	236	141	452
Cases Assigned For Investigation	143	119	144	328
Complaints Filed	24	23	21	68
Fraud Dollar Amount	\$380,229	\$479,000	\$636,000	\$1.495 Million

PREVENTED AND IDENTIFIED FRAUD TOTAL (FISCAL YEAR 2002-2003)—\$9,032,821.60

References

Documents

California Department of Social Services Manual of Policies and Procedures, July 1998.

Common-Place Handbook, Fraud Policies & Procedures, Attachment #1, SSA, April 2003.

Fraud Investigation Report – January—March 2003, California Department of Social Services, Research & Development Division, August 2003.

Los Angeles County Civil Grand Jury Report: Audit of the Fraud Prevention and Investigation Functions of the Department of Public Social Services, March 1999.

San Jose Mercury News, January 13, 2004, “Proposed Welfare Changes Alarm Children’s Advocates.”

Welfare Fraud Case Issuance Logs for January 2002 to July 2003, DA records.

“Welfare Fraud Case Issuance Monthly Sums for 2002,” DA report, August 22, 2004.

Interviews

Assistant DA and Assistant Chief Investigator, Public Assistance Fraud Division, Office of the District Attorney, September 23, 2003.

Assistant DA and Assistant Chief Investigator, Public Assistance Fraud Division, Office of the District Attorney, January 12, 2004.

Director, Department of Employment & Benefit Services and staff members, Santa Clara County Social Services Agency, December 4, 2003.

Director, Department of Employment & Benefit Services and staff members, Santa Clara County Social Services Agency, April 23, 2004.

Director, Santa Clara County Social Services Agency, September 2, 2003.

Supervising Investigator, Early Fraud Program (FRED), San Diego County Office of the District Attorney, February 27, 2004.