

# **OPTIONS FOR ORGANIZATIONAL RESPONSES TO WELFARE FRAUD IN CONTRA COSTA AND SANTA CRUZ COUNTIES**

**Diana Christensen\***

**Executive Summary**

## **INTRODUCTION**

Fraud-related overpayments in San Francisco have over time created an unintended relationship between the Department of Human Services and a subset of its customers: that of collector and debtors. County welfare agencies throughout the State of California have created a variety of organizational responses to welfare fraud. I spent my BASK interagency exchange at two counties, Contra Costa's Employment and Human Service Agency and the Santa Cruz Human Resources Agency, learning about their internal investigations divisions. It was my intention to seek out best practices that would aide San Francisco in limiting and/or curtailing the buildup of fraud-related overpayments and over-issuances.

## **FINDINGS**

Contra Costa and Santa Cruz Counties both have internal Special Investigations Units in their social service agencies. Both County agencies employ peace officers in these specialized units. With peace officer status, these employees are able to access law enforcement data- bases and to make collateral visits without prior client permission. Thus, they are able to investigate and resolve fraud allegations in an expeditious manner. Both organizations have close working relationships with their local prosecutors' offices.

Santa Cruz County has created a fraud prevention educational forum for their clientele called, "What Is Fraud?" By instructing their clients about fraud definitions, they further empower them to avoid common pitfalls.

## **RECOMMENDATIONS FOR SAN FRANCISCO:**

In order to reduce its overall fraud-related overpayments, San Francisco will need to embrace processes where quicker identification and resolution of welfare fraud can be made. The following recommendations should enable San Francisco to make its fraud processes more efficient:

- Establish a role for peace officers in the San Francisco Department of Human Services.
- Establish both stronger informal and formal communications with the San Francisco District Attorney's Office.
- Adopt the Santa Cruz Educational Forum, "What Is Fraud?"

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In the State of California, social service organizations at the county level are responsible for assisting the poor and local District Attorneys for detecting and prosecuting crime. When social service funds are illegally diverted from their original purpose, an intersection between the social service agency and the local prosecutor's office is created. Influenced greatly by local politics and social mores, responses to social service-related crime have varied dramatically among California counties.

As a new program manager of the San Francisco Department of Human Services Investigations Division, I am faced with \$26,000,000 in accounts receivable due to welfare overpayments and overissuances. In an effort to safeguard welfare dollars and help in maintaining an easier road for our clientele (as opposed to the drudgery of ongoing debt), it is my continuing challenge to find ways to lower the overall collectible sum. In other words, to stop and/or severely limit the overpayments and over-issuances *before* they occur. Fraud is the most significant cause of welfare overpayments and over-issuances. My internship focused on finding the best practices of Contra Costa County's Employment and Human Service Agency (EHSA), and Santa Cruz's Human Resources Agency (HRA) in their responses to welfare fraud. It was my intent to analyze these practices for their applicability in San Francisco.

**CONTRA COSTA COUNTY EMPLOYMENT AND HUMAN SERVICES AGENCY**

Contra Costa County's investigations division is comprised of four largely independent specialty units: Appeals, Overpayments, Early Fraud Investigations (EFI) and Special Projects, which follows up on IEV's (Income and Eligibility Verification System) computer hits. The Early Fraud Investigations and Overpayment Units are staffed by peace officers as defined under 830.35 of the California Penal Code. The Employment and Human Services Department additionally has a contract agreement with the District Attorney's Office for certain investigative functions and for the criminal prosecution of welfare fraud. The financial contract agreement works on the concept of payment for actual hours that the District Attorney staff spend on welfare fraud cases.

The Overpayments staff have a direct working relationship with the primary attorney who prosecutes welfare fraud cases. Originally from the ranks of eligibility workers, the Overpayment staff trained, tested, and became peace officers. The CCC Overpayment staff conduct "desk" investigations to establish the parameters of overpayments, including client and employer interviews over the phone, and the review of Income Maintenance folders for related case materials. (By contrast, San Francisco's Over-Payment Unit only calculates the overpayment budget.) The CCC Overpayment staff then calculate the overpayment and prepare the report for the District Attorney in consideration of prosecution.

It is notable that the District Attorney largely relies on the Overpayments unit for the complete investigation prior to the filing of charges. Ken Adams, Special Services Manager in charge of the investigations function at the CCC EHSA and my BAS SC Project facilitator in Contra Costa County, observed that a successful prosecution of welfare fraud cases requires the close physical

proximity of the human service investigations staff and the District Attorney staff. Located in an office adjacent to the District Attorney, the CCC Overpayment staff regularly testify in court proceedings. Their experience in the social service eligibility ranks gives them a thorough understanding of highly technical and bureaucratic program requirements. Their training and status as peace officers give them access to confidential law enforcement records and credibility when interacting with criminal justice officials.

While a \$400.00 fraud-based overpayment is considered Grand Theft, a felony under Section 487 of the California Penal Code, the CCC District Attorney is primarily interested in prosecuting cases where the loss is over \$2500.00 or where there has been prior fraud. Overpayments, which either resulted from administrative error and/or which are identified as being significantly below the prosecution threshold, are at times calculated by program eligibility staff. Such cases are then referred directly to the Collections agency, bypassing the Overpayments unit. Thus, the Overpayment unit's focus is largely on the cases that may be the subject of criminal prosecution.

### **COMBINATION OF BACKGROUNDS GIVES NEEDED EXPERIENCE TO EARLY FRAUD INVESTIGATORS**

All of Contra Costa's Early Fraud investigators are peace officers and unlike their Overpayments unit colleagues, these *field* investigators receive peace officer retirements. Regardless of their current status, it is the backgrounds of this unit's employees that give them the necessary skill bank for their jobs. Half of the employees have worked as eligibility workers. The other half are recruited from law enforcement and investigation fields. Thus, the blend of staff in the Early Fraud Investigations (EFI) unit represents a combination of experience that naturally provides them with the knowledge necessary to function in both social service and criminal justice worlds. A lack of either of these knowledge sets could have a crippling effect on their ability to function.

The CCC Early Fraud unit's established jurisdiction includes cases referred within 90 days of a welfare eligibility application or annual renewal. EFI staff are located within the eligibility units in the county's Richmond, Antioch, and Martinez offices. Designated duty officers review referrals for appropriateness, and the Early Fraud Unit members evaluate referrals for "probable cause" that a crime has been committed. Then, for each referral, they determine whether or not a crime occurred. If this standard is not articulated in the written referral, the designated investigator will contact the program worker to review the facts and issues. Early fraud investigators are authorized to supplement the original referrals with facts provided by the eligibility staff, and are responsible for deciding if the case referral ultimately meets the probable cause standard.

The importance of probable cause as a standard for the acceptance of EFI cases is that the level of evidence suggesting that a client has engaged in criminal activity is significant. This reduces the concern that a referral is made due to an eligibility worker's personal bias. On the other hand, "red flags" for fraud and/or inconsistencies in the case folder that do not reach the level of probable cause may not be investigated.

The Early Fraud Investigations unit and program staff make direct referrals to the District Attorney. EFI investigators rely on the District Attorney's office to handle arrests and search warrants for their cases. EFI investigators are authorized to carry mace, but are otherwise unarmed.

EFI investigations are characterized by their fast turnaround. The office expectation is for an investigation to be completed within 72-hours of its acceptance. The EFI enjoys certain privileges of law enforcement. Unlike San Francisco's civilian-operated FRED unit (Fraud Early Detection Unit) the CCC EFI unit make unannounced home visits, collateral contacts without express written permission of the client, and database queries to law enforcement-restricted computer systems. Thus, issues raised in the referrals are quickly resolved. The focus of their investigations is on whether the elements of a crime can be proved.

The benefit of a fast turnaround is significant to the Employment and Human Service Agency. First, the sooner fraudulent activity is detected, the sooner it can be stopped. Thus, the overpayment is not growing during a long investigations process. Second, the faster the process, the more difficult it is for violators to cover-up the fraud. Therefore, a faster detection process has a role in the effectiveness of the process. Also, a faster process takes the honest client out from under the cloud of suspicion more quickly.

### **The Special Investigations Unit of the Santa Cruz Human Resources Agency has created a model program for fraud prevention.**

The Special Investigations Unit (SIU) of Santa Cruz is staffed by thirteen employees of which seven function as investigators. The SIU operates the Appeals Unit, conducts early fraud prevention and investigation activities, investigates ongoing fraud, and calculates overpayments that have resulted from intentional program violations. Two senior eligibility workers, who are assigned to the SIU, calculate overpayments and over-issuances.

Like Contra Costa County's welfare fraud investigators, Santa Cruz's SIU investigators have peace officer status. The chief investigator also functions as the organizational program manager for the SIU and assigns cases on a rotating basis. The SIU operates out of two offices, one in Santa Cruz and the other in Watsonville. Geographical location is one, of several case assignment considerations.

The Santa Cruz Human Resources Agency SIU has two distinctions that significantly differ from both San Francisco and Contra Costa. First, as a small program, their investigators are generalists. An investigator who handles an early fraud program will also handle an IEV's case. While the different types of investigations they conduct have distinct characteristics (Early Fraud, Intentional Program Violation-IEVs hit, stolen checks, etc.), they are not defined by who conducts them *per se*, but by the activities the investigators are engaged in. As a result, inter-office jurisdiction issues that one might find in larger, more bureaucratic organizations are eliminated.

The other significant difference in Santa Cruz is that they have defined fraud "prevention" activities to surpass the simple early detection of fraud. The Santa Cruz SIU has incorporated

"What Is Fraud?", an educational presentation, into their CalWORKS group orientation for applicants. SIU Investigators make the presentation and essentially discuss what legally constitutes welfare fraud. They specifically define acts of omission and commission that would result in program violations and/or a violation of law. They specifically discuss the reporting requirements for CalWORKS and Food Stamps, listing requirements for reporting anyone living in the household, lottery winnings, various types of income, etc. Finally, they discuss how welfare fraud is detected. They talk about the types of database access, including law-enforcement databases, they have in order find certain information, and to verify eligibility. They discuss certain investigative techniques they use. They discuss the sanctions and penalties for welfare fraud.

The "What Is Fraud" presentation is made in Santa Cruz and Watsonville on a daily basis. Due to the large Spanish-speaking population in Watsonville, the SIU makes these presentations in the fall and winter months three days a week in Spanish and two days in English. In spring and summer, during farming months, Watsonville reduces the Spanish presentations to two days a week.

The presentation is made using an outline that is placed on an overhead projector. At the end of the presentation, applicants sign a form that they attended the presentation.

Santa Cruz Early Fraud Investigators make certain computer verification checks for criminal history and DMV car ownership (as part of an assets verification) for all applicants prior to the approval of aid. Such computer checks are made via the California Law Enforcement Telecommunications System (CLETS) and/or the Santa Cruz County Sheriff's database which is installed directly onto each investigator's computer. The criminal history checks weed out ineligible applicants who have a recent drug-related felony conviction and anyone with a current felony warrant. Thus, because these checks are made in advance, overpayments are not accrued by those who are screened out at the time of application. Complete computer background checks are not made on anyone unless the SIU opens up a formal fraud investigation.

The combined processes of the "What Is Fraud?" presentations and the specific computer checks were instituted at the time when AFDC was eliminated, and CalWORKS initiated. At that time, Santa Cruz welfare rolls were significantly lowered, as were fraud complaints. There have been no objective, formal studies to analyze the Santa Cruz decrease in fraud complaints. However, SIU investigators attribute their "What Is Fraud?" presentations with much of the decrease in fraud referrals. They provide anecdotal evidence of would-be applicants retracting their applications after viewing the presentations. One of the SIU line investigators gave a recent example of an applicant who claimed she was a single mother. After hearing the fraud presentation, the client withdrew her application, only to return the following week to apply with her live-in husband.

Each SIU investigator regularly communicates with the District Attorney assigned to prosecute welfare fraud cases. The HRA has a written Memorandum of Understanding with the District Attorney to pay for actual District Attorney staff time that is spent on welfare fraud cases. The Human Resources Agency of Santa Cruz and its SIU have been reluctant to set prosecution thresholds that are higher than the \$400.00 loss that defines grand theft. Each case is individually

evaluated for prosecution with particular consideration for whether the case can be proved "beyond a reasonable doubt," possible problems that could arise at trial, and any history of welfare fraud claims by the accused.

## **CONSIDERATIONS FOR THE SAN FRANCISCO DEPARTMENT OF HUMAN SERVICES**

San Francisco's investigation's processes have been developed over time in response to the local community's social mores and the unique brand of local political activism. It would be unrealistic and politically naive to expect that San Francisco could successfully implement all of Contra Costa or Santa Cruz's SIU processes. However, the state's economic down-turn along with the unwieldy size of San Francisco's accounts receivable calls for greater scrutiny, analysis, and change in antifraud systems. Early fraud identification and immediate containment will dramatically lower the cost of overpayments and over-issuances.

Certain processes and practices in both Contra Costa and Santa Cruz are worth exploring for their adaptability in San Francisco. In particular the following issues should be considered:

- Establishing a role for peace officers in the Human Service Department

Currently, the Investigations Division is entirely operated by civilians who are, primarily, from the eligibility worker ranks. There would be numerous immediate and significant benefits to having peace officers on staff. First, the integration of peace officers into San Francisco's DHS would give the staff a mix of law enforcement and program eligibility perspectives. The cross-training between these two employee groups would enhance the organization's versatility. Further, it would give the organization greater access to restricted law enforcement databases like CLETS. Without peace officers on staff, such access will remain indirect. Access would be immeasurable in providing faster, essential information for San Francisco's early fraud investigations.

- Establishing stronger informal and formal communications with the San Francisco District Attorney's Office.

The lack of a written agreement with the District Attorney has been cause for unclear jurisdictional divisions and operating processes. Ongoing, regular meetings should be set to delineate work agreements, review progress, develop joint projects, and to set priorities. A formal work order agreement should be written for each contract year. Finally, a periodic reporting mechanism should be established so that the Department of Human Services has clear information on the investigation and prosecution of each welfare fraud case handled by the District Attorney.

- Adopting the Santa Cruz Educational Form, "What Is Fraud?"

This educational forum provides an avenue for San Francisco to call on its customers to be part of the solution in maintaining fiscal integrity. The forums give clients the information they need to avoid improper reporting.

One possible avenue for implementing this recommendation without increasing overall costs is to use San Francisco's early fraud investigators from the FRED Unit. The FRED Unit already assigns a "duty worker" to the CalWORKS program on a daily basis. Thus, the daily duty worker could readily make the "What is Fraud" presentation part of their "duty-day" responsibilities.

## **ACKNOWLEDGMENTS**

My BASSC internship has given me the opportunity to have candid, serious discussions with social service and law enforcement experts in Contra Costa and Santa Cruz Counties. These purposeful discussions will most certainly have direct impact on how we retool our fraud prevention and investigation processes. This internship gave me the opportunity to expand my personal view of fraud processes and to develop a vision for change. I am grateful for that opportunity.

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