



# County of Santa Cruz

## DISTRICT ATTORNEY'S OFFICE

701 OCEAN STREET, ROOM 200, P.O. BOX 1159, SANTA CRUZ, CA 95060  
(831) 454-2400 FAX: (831) 454-2227 E-MAIL: dao@co.santa-cruz.ca.us

KATHRYN CANLIS  
DISTRICT ATTORNEY

June 6, 2002

**BOARD AGENDA: June 25, 2002**

Members of the Board of Supervisors  
Governmental Center  
701 Ocean Street, Room 500  
Santa Cruz, California 95060

### **Re: 2002-2003 Department of Insurance Workers' Compensation Insurance Fraud Program**

Dear Members of the Board:

The District Attorney's Office is requesting your Board's authorization to reapply to the State Department of Insurance for \$100,961 of new funding in fiscal year 2002-2003. These funds will support our efforts to investigate and prosecute Workers' Compensation Insurance Fraud cases. These revenues will be deposited in a trust fund which the Auditor-Controller has established specifically for the purpose of collecting all new revenues received from the State Department of Insurance. This will ensure that only earned revenues are recognized and deposited in the general fund. Our application also includes a line-item for recovery of indirect costs.

As identified in the Santa Cruz County Proposed Budget for fiscal year 2002-2003, due to previous underspending by the District Attorney's Office for eligible costs associated with this grant, the General Fund must absorb the actual expenditures associated with these Workers' Compensation Fraud activities until all of those unearned revenues are earned. Once we have used all previously unspent funds, the new funds will then be disbursed to us from the trust fund based upon claims of actual expenditures. The corresponding revenues will be recognized accordingly.

The statutory authority authorizing the Department of Insurance to provide funding for Workers' Compensation Insurance Fraud investigations and prosecutions is contained in SB 1218 (Chapter 116), Statutes of 1991. The District Attorney's Office has participated in this program each fiscal year since 1992.

Members of the Board of Supervisors  
June 6, 2002  
Page 2

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A copy of our reapplication will be placed on file for your review with the Clerk of the Board. We will continue to notify your Board of any changes to the fiscal year 2002-2003 State Department of Insurance Workers' Compensation Insurance Fraud Program.

IT IS THEREFORE RECOMMENDED THAT YOUR BOARD adopt a Resolution authorizing the District Attorney to reapply to the State Department of Insurance for fiscal year 2002-2003 Workers' Compensation Insurance Fraud funds in the amount of \$100,961.

Respectfully,

  
for KATHRYN CANLIS  
DISTRICT ATTORNEY

RECOMMENDED:

  
SUSANA MAURIELLO

COUNTY ADMINISTRATIVE OFFICER

WC ltr&res.aj.wpd

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

0141

RESOLUTION NO.

On the motion of Supervisor  
duly seconded by Supervisor  
the following resolution is adopted

RESOLUTION AUTHORIZING THE DISTRICT ATTORNEY TO APPLY FOR FUNDS DURING FISCAL  
YEAR 2002-2003 FOR A WORKERS' COMPENSATION INSURANCE FRAUD PROGRAM ADMINISTERED  
BY THE CALIFORNIA DEPARTMENT OF INSURANCE

~~WHEREAS~~ the Board of Supervisors of Santa Cruz County desires to undertake  
a certain project designated the Worker's Compensation Insurance Fraud Program,  
to be funded in part from funds made available through California Insurance Code  
Section 1872.83, California Code of Regulations Subchapter 9, Article 3, Section  
2698.55 and administered by the California Department of Insurance.

NOW, THEREFORE, THE BOARD OF SUPERVISORS RESOLVES AND ORDERS that the  
District Attorney of the County of Santa Cruz is authorized, on its behalf to  
submit an application for state funds for a Workers' Compensation Insurance Fraud  
Program to the California Department of Insurance and is authorized to execute  
on behalf of the Board of Supervisors of Santa Cruz County, a Grant Award  
Agreement, including any extensions or amendments thereof.

BE IT FURTHER RESOLVED AND ORDERED that grant funds received hereunder  
shall not be used to supplant expenditures controlled by this body;

PASSED AND ADOPTED by the Board of Supervisors of the County  
of Santa Cruz, State of California, this \_\_\_\_ day of \_\_\_\_\_ 2002, by the  
following vote:

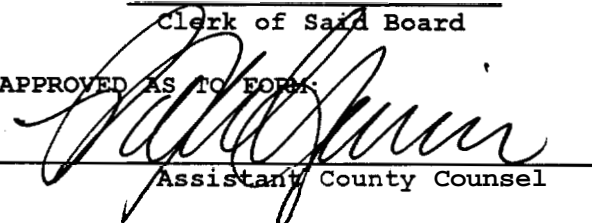
VOTE :  
AYES :  
NOES :  
ABSENT :  
ABSTAIN :

\_\_\_\_\_  
JANET K. BEAUTZ  
CHAIRPERSON OF THE BOARD

ATTEST :

\_\_\_\_\_  
Clerk of Said Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant County Counsel

DISTRIBUTION: District Attorney  
County Counsel  
Auditor, CAO

## GRANT APPLICATION TRANSMITTAL

Office of the District Attorney, County of SANTA CRUZ, hereby makes application for funds under the *Workers' Compensation Insurance Fraud Program* pursuant to Section 1872.83 of the Insurance Code.

Contact: Michael S. McFarland, Chief Deputy-Administration  
 Address: 701 Ocean Street, Room 200  
Santa Cruz, California 95060  
 Telephone: (831) 454-2529

<u>Workers' Compensation Insurance Fraud Program</u>	<u>July 1, 2001 - June 30, 2002</u>
(1) <i>Program Title</i>	(2) <i>Grant Period</i>

	<u>\$100,961</u>
	(3) <i>Grant Amount</i>

Kathryn Canlis  
 (4) *Program Director*

Eric Seib  
 (5) *Financial Officer*

  
 (6) *District Attorney's Signature*

Name: Kathryn Canlis  
 Title: District Attorney  
 County: Santa Cruz  
 Address: 701 Ocean Street, Room 200  
Santa Cruz, CA 95060  
 Telephone: ( 831) 454-2400  
 Date: June 18, 2002

## PROGRAM CONTACT FORM

0143

1. Provide the name, title, address and telephone number for the person having day-to-day responsibility for the program.

Name: G. David Genochio

Title: Asst. District Attorney

Address: 701 Ocean St., Room 200  
Santa Cruz, CA 95060

Telephone Number: (831) 454-2400 Fax Number: (831) 454-2227

2. Provide the name, title, address and telephone number of the Chair of the County Board of Supervisors.

Name: Janet K. Beautz

Title: Chair. Board of Supervisors

Address: 701 Ocean St., Room 500  
Santa Cruz, CA 95060

Telephone Number: (831) 454-2200 Fax Number: (831) 454-3262

3. Provide the name, title, address and telephone number for the District Attorney's Financial Officer.

Name: Eric Seib

Title: Financial Officer

Address: 701 Ocean Street. Room 200  
Santa Cruz. California 95060

Telephone Number: (831) 454-2495 Fax Number: (831) 454-2227

4. Provide the name, title, address and telephone number for the person responsible for the data collection/reporting for the applicant agency.

Name: Inspector James Gray

Title: Supervisor. Inspectors Bureau

Address: 701 Ocean Street, Room 200  
Santa Cruz. California 95060

Telephone Number: (831) 454-2400 Fax Number: (831) 454-2227

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO.

On the motion of Supervisor  
duly seconded by Supervisor  
the following resolution is adopted

RESOLUTION AUTHORIZING THE DISTRICT ATTORNEY TO APPLY FOR FUNDS DURING  
FISCAL YEAR 2001-2002 FOR A WORKERS' COMPENSATION INSURANCE FRAUD  
PROGRAM ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF INSURANCE

WHEREAS, the Board of Supervisors of Santa Cruz County desires to undertake a certain program designated the Workers' compensation Insurance Fraud Program, to be funded in part from funds made available through California Insurance Code Section, 1872.83, California Code of Regulations Subchapter 9, Article 3, Section 2698.55 and administered by the California Department of Insurance.

NOW, THEREFORE, THE BOARD OF SUPERVISORS RESOLVES AND ORDERS that the District Attorney of the County of Santa Cruz is authorized, on its behalf to submit an application for state funds for a Workers' Compensation Insurance Fraud Program to the California Department of Insurance and is authorized to execute on behalf of the Board of Supervisors of Santa Cruz County, a Grant Award Agreement, including any extensions or amendments thereof.

BE IT FURTHER RESOLVED AND ORDERED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body;

PASSED AND ADOPTED by the Board of Supervisors of the County  
of Santa Cruz, State of California, this \_\_\_\_ day of \_\_\_\_\_ 2002, by the following vote:

VOTE:  
AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
TONY CAMPOS  
CHAIRPERSON OF THE BOARD

ATTEST: \_\_\_\_\_  
Clerk of Said Board

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Counsel

DISTRIBUTION: District Attorney  
County Counsel  
Auditor, CAO



**INSURANCE FRAUD INVESTIGATION/  
PROSECUTION PROGRAMS  
FISCAL YEAR 2002-2003 GRANTS**

**Grant Application Forms  
Checklist & Sequence**

**The Request for Application MUST include the following:**

	<b><u>YES</u></b>	<b><u>NO</u></b>
1. Is the Grant Application Submittal sheet completed and signed by the District Attorney?	<u>X</u>	
2. Is an original or certified copy of the Board Resolution included? If NOT, the cover letter must indicate the submission date.	<u>      </u>	<u>X</u>
3. Is the Program Contact Form completed?	<u>X</u>	<u>      </u>
4. Is the Project Budget included?	<u>X</u>	<u>      </u>
a) Line item totals are verified?	<u>X</u>	<u>      </u>
b) Carryover estimate is included?	<u>X</u>	<u>      </u>
5. The County Plan includes:		
a) County Plan Qualifications	<u>X</u>	<u>      </u>
b) County Plan Problem Statement	<u>X</u>	<u>      </u>
c) County Plan Program Strategy	<u>X</u>	<u>      </u>
d) Staff Qualifications and Rotational Policies	<u>X</u>	<u>      </u>
e) Organization chart	<u>X</u>	<u>      </u>
f) Joint Investigative Plan	<u>X</u>	<u>      </u>



**CALIFORNIA DEPARTMENT OF INSURANCE  
CRIMINAL INVESTIGATIONS BRANCH  
FRAUD DIVISION**

**QUALIFICATIONS**

- 1. Describe the District Attorney's experience in investigating and prosecuting Workers' Compensation insurance fraud. Include any relationships developed or planned with other public or private entities which may be useful to program operations.**
  - a) As a result of grant funded activities, the Santa Cruz County District Attorney's Office Insurance Fraud Unit has established itself as an integral part of the Santa Cruz County Employer's Safety Council. This Council is comprised of human resource and risk management representatives as well as members of local insurance companies who annually meet to discuss Workers' Compensation insurance fraud issues. In addition to the annual meetings the insurance fraud investigator is in frequent contact with the council members to discuss possible insurance fraud occurring in their respective businesses. As a result of these contacts, the insurance fraud investigator often receives tips regarding possible fraud which enables the investigator to investigate the legitimacy of the information and initiate "ground floor" investigations even before an insurance company is notified. Some of this information has been corroborated with other information received.
  - b) In an effort to increase the public awareness of Workers' Compensation insurance fraud and its prosecution, the Santa Cruz County District Attorney's Office has successfully engaged in a number of efforts towards this end. In 1996, the fraud investigator appeared on radio station KSCO 1080 A.M. in a two-hour program regarding workers' compensation insurance fraud (employer and employee responsibilities). The program was well received and numerous questions were received from the listening audience on this topic. Because of the interest in this area, plans are currently being made to repeat the show.  
  
We have instituted an outreach program with Workers' Compensation insurance defense lawyers on cases of suspected fraud. The response to this program has been good and in one case in FY 1999/2000 being reported to the program investigator immediately after a deposition was taken. This case led to a conviction for insurance fraud and a restitution order for \$17,000.00.
  - c) The program investigator conducted two training sessions with the following public sector personnel involved in handling Workers' Compensation claims in FY 1999/2000:
    1. The first session was conducted with the Human Resources personnel of a local self-insured mushroom-growing plant (which was experiencing approximately 100 open Workers' Compensation claims among 300 employees). This company had never previously packaged a suspected Workers' Compensation claim for criminal investigation. The criminal justice system was demystified and the requirements for a case referral were explained. This session led directly to their first suspected fraud

**Qualifications** (continued)

referral (the investigation ~~is~~ currently pending).

2. The second session was with a private investigator who had not previously submitted a suspected criminal fraud for investigation. He had recently been retained by the mushroom-plant above. He was instructed on what elements were necessary for a successful prosecution and subsequently collected very incriminating subrosa video and conducted an interview which revealed blatant misrepresentations.

No formal training sessions were conducted in FY 200012001 or FY 200112002.

- d) In order to effectively investigate and prosecute workers' Compensation fraud, the Santa Cruz County District Attorney's Office's insurance fraud personnel have attended a number of training programs and participated in interagency collaboration:

1. From 1992 to 1998, insurance fraud personnel attended insurance fraud training programs sponsored by the California Department of Insurance (CDI) and the California District Attorneys Association (CDA). At these four day long conferences, our investigators and prosecutor met with investigators and prosecutors from the California Department of Insurance and from counties throughout the entire state to further continue interagency relations for mutual investigations.
2. Due a reduction in funding for FY 199811999, the fraud investigator and attorney did not attend the annual conference. The investigator did attend the 2000 CDA conference and very useful information was received.
3. In 1998, the fraud investigator joined the Northern California Fraud Investigators Association (NCFIA) and attended two of the Association quarterly meetings/training sessions in FY 1999/2000. The NCFIA is comprised of both public and private insurance investigators from a variety of departments and companies through out Northern California. It had been found that this Association has been an excellent resource and the directory of members had been used numerous times to make contacts with outside sources. The Association has guest speakers at each meeting and two have spoken on a variety of insurance fraud related topics.
4. In 1998, the investigator began attending bimonthly meetings in San Jose which were attended by personnel from the Santa Clara County District Attorney's Office, the San Mateo County District Attorney's Office, the Department of Insurance, the IRS, EDD and other insurance fraud personnel. The meetings were a round-table discussion of current cases, fraud trends and investigative techniques that have been found to be effective.

The fraud investigator has also regularly met with personnel from the San Jose office of the Department of Insurance Fraud Bureau regarding workers' compensation insurance fraud cases.

5. In FY 2000/2001, the program prosecutor and investigator attended the California District Attorneys Association (CDAA) Insurance Fraud seminar in Costa Mesa.
  6. In FY 2001/2002, one of the investigators attended the CDAA Insurance Fraud seminar in Monterey.
- e) In 1996, Santa Cruz County District Attorney's Office conducted a large scale workers' compensation and auto insurance fraud investigation regarding a licensed acupuncturist practicing in Santa Cruz County. This investigation was referred to our office by the California Department of Consumer Affairs, Division of Investigation. Our office interfaced on a daily basis with the Department of Consumer Affairs, the California Department of Health Services, the United States Food and Drug Administration as well as numerous health care insurance carriers. As a result of this investigation, our office now has established a network of investigators, investigative aids, and information sources to be utilized during future health care practitioner insurance fraud investigations.
- f) Beginning in FY 1998/1999 and concluding in FY 2001/2002, the Santa Cruz District Attorney's Office and the Department of Insurance Fraud Division jointly investigating allegations of billing fraud committed by a Santa Cruz chiropractor. The investigation included the service of search warrants at three locations and the seizure of volumes of files. Over two hundred potential counts of provider fraud were identified. The chiropractor and his wife/office manager were charged collectively with forty (40) felony counts of insurance fraud. This prosecution resulted in guilty pleas to ten felony counts and approximately \$67,000.00 in fines and restitution (including \$45,000.00 to the Workers' Compensation and Auto Insurance Fraud Funds).

Currently, a joint investigation is being conducted into a new Medical Billing Fraud case. This investigation will involve an undercover investigation and search warrant services to two or more locations. This investigation will continue into FY 2002/2003.

- g) Labor Code Section 5432 which requires a warning regarding false or fraudulent workers' compensation claims in any advertisement, including newspaper and yellow pages, has been a subject of concern to us. We initiated a policy which provides that we notify in writing those who seem innocently to be violating this section. For more flagrant violations, we intend to prosecute, and in some cases may seek injunctions. Full implementation of this policy has been held in abeyance pending resolution by the telephone company regarding its "yellow pages" advertisements and what disclaimers it intends to include. We anticipate voluntary compliance on the part of the members of the bar and the medical community.

Starting on FY 2000/2001 and continuing into FY 2001/2002, the program investigator responded to several newspaper and other print ads for medical services to Workers' Compensation claimants with captions such as: "injured at Work? New Free Report Reveals Worker's Rights..." These ads were found to be solicitations from local chiropractic offices which advised claimants of their rights to Workers' Compensation

**Qualifications** (continued)

benefits. The information in these "reports" were very basic and no potential fraud case(s) was/were generated *from* the ads.

- h) During the history of this grant, the investigator assigned to insurance fraud has split his/her time investigating insurance fraud cases in the following manner: 75% Workers' Compensation fraud and 25% Auto Insurance fraud.

In FY 1998/1999, the number of auto insurance fraud case referrals dramatically increased and created an imbalance in the traditional time allocation.

In FY 1999/2000, responsibilities for the Workers' Compensation grant and Auto Insurance grant were separated and assigned to two investigators so the appropriate percentage of time could be allotted to each program.

The separated grant investigative responsibilities were found to work well and the practice was carried into FY 2002/2003.

## **QUALIFICATIONS (cont'd)**

***If the District Attorney has received a grant from CDI prior to this application, list only those achievements made possible by the use of grant funds. Also complete the Summary of closed and pending prosecutions for FY 1999-2000. A page listing program achievements realized with the use of other funds may be included in the Appendix.***

1. In FY 1998/99, 8 investigations were initiated and involved an average of 1 identified suspect per investigations. In FY 1999-2000, 15 investigations were initiated and involved an average of 1 identified suspects per investigation. In FY 2000-2001, 15 investigations were initiated and involved an average of 1 identified suspects per investigation. From July 1, 2001 to June 15, 2002, 7 investigations were initiated and involved an average of 1 identified suspects per investigation.
  
2. In FY 1998/99, 5 warrants/indictments were issued, involving an average of 1 suspects and/or defendants. In FY 1999-00, 1 warrant/indictments were issued, involving an average of 1 suspects and/or defendants. In FY 2000-2001, 15 warrants/indictments were issued, involving an average of 1 identified suspects and/or defendants. From July 1, 2001 to June 15, 2002, 1 warrants/indictments were issued, involving an average of 1 identified suspects and/or defendants.
  
3. In FY 1998/99, 0 arrests and 3 surrenders were made. From In FY 1999-00, 0 arrests and 1 surrenders were made. In FY 2000-2001, 0 arrests and 2 surrenders were made. From July 1, 2001 to June 15, 2002, 0 arrests and 1 surrenders were made.
  
4. In FY 1998/99, 4 convictions were obtained involving 4 defendants. Of these convictions, 0 were obtained by trial verdict, 4 were obtained by plea or settlement. In FY 1999-00, 2 convictions were obtained involving 2 defendants. Of the convictions, 0 were obtained by trial verdict, 2 were obtained by plea or settlement. In FY 2000-2001, 3 convictions were obtained involving 3 defendants. Of these convictions, 0 were obtained by trial verdict, 3 were obtained by plea or settlement. From July 1, 2001 to June 15, 2002, 3 convictions were obtained involving 3 defendants. Of the convictions, 0 were obtained by trial verdict, 3 were obtained by plea settlement.
  
5. In FY 1998/99, 3 defendants were ordered to pay \$500 in fines and penalty assessments. Of this amount, \$500 was collected from 3 defendants. In FY 1999-2000, 2 defendants were ordered to pay \$7,678.65 in fines and penalty assessments. Of this amount, \$500.57 was collected from 2 defendants. In FY 2000-2001, 2 defendants were ordered to pay \$400 in fines and penalty assessments. Of this amount,

**Qualifications** (continued)

\$200 was collected from 1 defendant. From July 1, 2001 to June 15, 2002, 4 defendants were ordered to pay \$10,573.18 in fines and penalty assessments. Of this amount, \$200 was collected from 1 defendant.

6. In FY 1998/99, 2 defendants were ordered to pay restitution in the amount of \$16,835.80 to victims. Of this amount, \$7,091.81 was collected from 1 defendants, benefitting 1 victims. From In FY 1999-00, 2 defendants were ordered to pay restitution in the amount of \$7,678.65 to victims. Of this amount, \$500.57 was collected from 2 defendants, benefitting 2 victims. In FY 2000-2001, 2 defendants were ordered to pay restitution in the amount of \$17,000 to victims. Of this amount, \$1,215 was collected from 1 defendants, benefitting 1 victims. From July 1, 2001 to June 15, 2002, 3 defendants were ordered to pay restitution in the amount of \$52,962.82 to victims. Of this amount, \$16,550.59 was collected from 3 defendants, benefitting 25 victims.

7. List the name of the program's prosecutor(s) and investigator(s). Under the name of each staff:
  - a. List the percentage of their time devoted to the program.
  - b. How long have the prosecutor(s)/investigator(s) been with the program.
  - c. **Under the name of each prosecutor and each investigator**, list all the cases (by suspect name or by case number, when the case was assigned and **briefly describe the case**) the prosecutor(s) and investigator(s) have prosecuted during fiscal year 2000-01. Please also include those cases that were prosecuted without **positive** result.

**PROSECUTORS:**

During FY 200112002, the program prosecutor on the Workers Compensation grant was G. David Genochio. ADA Genochio has worked on the grant (off and on) for approximately ten years as the program prosecutor and project director. Approximately twenty percent (20%) of his time was devoted to the grant in FY 200112002.

ADA David Rabow handled one Workers' Compensation insurance fraud case during FY 200112002 (a case that had originally been assigned to him in FY 1999/2000). He devoted less than 1% of his of his time to the grant in FY 200112002.

**INVESTIGATORS:**

The investigators for the Workers' Compensation grant were James Gray, ten percent (10%) of his time was devoted the grant, and he has worked on the grant five years and four months.

Rick Seiley has spent fifty percent (50%) of his time devoted to grant activities. He has worked on the grant for four months.

Patrick Murray has spent fifty percent (50%) of his time devoted to the grant. He has worked on the grant for six months.

**CASE SUMMARIES****ASSISTANT DISTRICT ATTORNEY JAMES JACKSON.:**

CASE #98-0043-M

Kimberly SMITH

Investigator: James Gray

ADA: James Jackson

Kimberly SMITH was convicted on 5-27-98 on one count of insurance fraud. She was placed on probation and was ordered to pay restitution to The Zenith Insurance in an amount to be set by the WCAB. WCAB subsequently set the amount at \$2,800.00 and SMITH agreed to make monthly payments of \$100.00.

Zenith reported that SMITH failed to pay any of the restitution and the case was reopened in July 1999 as a violation of probation.

This case was closed with no further disposition.

**ASSISTANT DISTRICT ATTORNEY DAVID GENOCHIO:**

CASE #99-0023-M

ACTION  
CHIROPRACTIC  
CENTER

Investigators: James Gray

Laurel Robinson

(CDI--San Jose)

ADA: G. David Genochio

This case was originally reported as an Auto Insurance fraud case. A patient of Dr. Jeffrey LEVINE at the Action Chiropractic Center reported nonexistent office visits connected to massage therapy sessions.

Subsequent interviews with the massage therapist, former employees and the service of search warrants established that Dr. LEVINE and his wife/office manager -- Martha LEVINE -- were involved in a practice of fraudulent medical billing involving Worker's Compensation, Auto and Personal Injury claims. 202 incidents of fraudulent billing involving 20 patients were identified as occurring over a two-year period.

This investigation was conducted jointly with investigators from the CDI--Fraud Division.

On 3-15-2001, a complaint charging 40 counts of Insurance Fraud was filed against Jeffrey and Martha LEVINE DBA: Action Chiropractic Center.

On 1-8-2002, Action Wellness Center, Inc. pleaded guilty to 10 counts of 550(b)(2) PC -- Insurance Fraud. The following sentence was imposed: \$200.00 Restitution Fund fine, \$45,000.00 for Investigative Costs (\$30,000.00 to the Workers' Compensation Insurance Fraud Program and \$15,000.00 to the Auto Insurance Fraud Program), \$9773.19 county fine



**Qualifications** (continued)

and \$6,970.82 in direct restitution to the victim patients and insurance carriers.

Mandatory reports were made to the California Chiropractic Board for potential action against Dr. LEVINE's license.

This case was closed.

CASE #01-0082-M

Francisco  
MACHADO

Investigators: James Gray

Rick Seiley

ADA:

G. David Genochio

Kemper Insurance reported Francisco MACHADO was observed and video taped working as a parcel handler for Federal Express while receiving temporary total disability benefits from Airborne Express for an industrial back injury.

MACHADO was charged with two counts of Insurance Fraud and is scheduled to appear for arraignment on 6-29-2001.

On 9-24-2001, MACHADO pleaded "no contest" to a single count of Grand Theft. The two counts of Insurance Fraud were dismissed. He received the following sentence: 3 years formal probation, 30 days in jail (with credit for one day served), \$200.00 restitution fund fine and \$992.00 in direct restitution to Kemper Insurance.

This case was closed.

CASE #02-0012-M

Otilia DIAZ

Investigator: Patrick Murray

ADA: G. David Genochio

Zenith Insurance reported Otilia DIAZ made two claims for injuries to her shoulders, back and legs in 1999. She denied any previous medical problems to her treating physician and at deposition, Medical records revealing previous injuries and treatment were located which refuted her claims.

On 2-20-2002, one count of Workers' Compensation Insurance Fraud and one count of Perjury were filed against DIAZ.

On 5-31-2002, a preliminary hearing was conducted and DIAZ was held to answer one count of insurance fraud.

This prosecution will be carried into FY 2002/2003.

**Qualifications** (continued)**ASSISTANT DISTRICT ATTORNEY DAVID RABOW:**

CASE# 98-0916-M

Paul  
BOULTINGHOUSEInvestigator: James Gray  
Filing ADA: James Jackson  
Trial ADA: David Rabow

Fremont Compensation reported BOULTINGHOUSE gave false statements to medical providers and claims representatives after being involved in a 1991 work-related vehicle accident. BOULTINGHOUSE made statements in a 1998 deposition that were contradictory to subrosa video taken.

BOULTINGHOUSE was charged three felony counts -- two counts of Perjury and one count of Insurance Fraud.

On 9-13-99, a preliminary hearing was held and BOULTINGHOUSE was held to answer on the listed charges.

On 11-16-00, BOULTINGHOUSE pleaded "no contest" to a single count of Insurance Fraud. His sentencing was scheduled to trail his WCAB hearing and is currently set for 6-25-2001.

On 5-6-2002, BOULTINGHOUSE was sentenced as follows: Five years formal probation, 60 days County Jail, \$400.00 restitution fine and a direct restitution amount to be established by the WCAB.

This case was closed.

**INSPECTOR JAMES GRAY:**

CASE #98-0043-M

Kimberly SMITH

Investigator: James Gray  
ADA: James Jackson

Kimberly SMITH was convicted on 5-27-98 on one count of insurance fraud. She was placed on probation and was ordered to pay restitution to The Zenith Insurance in an amount to be set by the WCAB. WCAB subsequently set the amount at \$2,800.00 and SMITH agreed to make monthly payments of \$100.00.

Zenith reported that SMITH failed to pay any of the restitution and the case was reopened in July 1999 as a violation of probation.

This case was closed with no further disposition.

**Qualifications** (continued)

CASE# 98-0916-M

Paul  
BOULTINGHOUSEInvestigator: James Gray  
Filing ADA: James Jackson  
Trial ADA: David Rabow

Fremont Compensation reported BOULTINGHOUSE gave false statements to medical providers and claims representatives after being involved in a 1991 work-related vehicle accident. BOULTINGHOUSE made statements in a 1998 deposition that were contradictory to subrosa video taken.

BOULTINGHOUSE was charged three felony counts -- two counts of Perjury and one count of Insurance Fraud.

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On 5-6-2002, BOULTINGHOUSE was sentenced as follows Five years formal probation, 60 days County Jail, \$400.00 restitution fine and a direct restitution amount to be established by the WCAB.

This case was closed.

CASE #99-0023-M

ACTION  
CHIROPRACTIC  
CENTERInvestigators: James Gray  
Laurel Robinson  
(CDI--San Jose)  
ADA: G. David Genochio

This case was originally reported as an Auto Insurance fraud case. A patient of Dr. Jeffrey LEVINE at the Action Chiropractic Center reported nonexistent office visits connected to massage therapy sessions.

Subsequent interviews with the massage therapist, former employees and the service of search warrants established that Dr. LEVINE and his wife/office manager -- Martha LEVINE -- were involved in a practice of fraudulent medical billing involving Worker's Compensation, Auto and Personal injury claims. 202 incidents of fraudulent billing involving 20 patients were identified as occurring over a two-year period.

This investigation was conducted jointly with investigators from the CDI--Fraud Division.

**Qualifications** (continued)

On 3-15-2001, a complaint charging 40 counts of Insurance Fraud was filed against Jeffrey and Martha LEVINE, DBA: Action Chiropractic Center.

On 1-8-2002, Action Wellness Center, Inc. pled guilty to 10 counts of 550(b)(2) PC -- Insurance Fraud. The following sentence was imposed: \$200.00 Restitution Fund fine, \$45,000.00 for Investigative Costs (\$30,000.00 to the Workers' Compensation Insurance Fraud Program and \$15,000.00 to the Auto Insurance Fraud Program), \$9773.19 county fine and \$6,970.82 in direct restitution to the victim patients and insurance carriers.

Mandatory reports were made to the California Chiropractic Board for potential action against Dr. LEVINE's license.

**CASE #00-0009-M**

**CLAIMANT**

Investigator: James Gray

Travelers Insurance reported that a mushroom picker from Vlasic Foods -- CLAIMANT — made a delayed report of a back injury in 1998. An insurance investigation produced subrosa videotape of CLAIMANT's physical activities. CLAIMANT's denied being able to, or having performed the activities recorded during a subsequent interview with an insurance investigator. Additional insurance investigation revealed CLAIMANT was working two additional jobs while collecting benefits on this claim.

This case lacked sufficient evidence to support a criminal complaint and was closed.

**CASE #00-0879-M**

**CLAIMANT**

Investigator: James Gray

A private citizen reported that CLAIMANT had reported a work-related back injury and hernia to his employer, but had actually injured himself while lifting some computer equipment at home.

This case lacked sufficient evidence to support a criminal complaint and was closed.

**CASE # 01-0028-M**

**EMPLOYERS**

Investigator: James Gray

CLAIMANT (a cash-paid day-laborer) reported his wrist was injured in a chainsaw accident while working for EMPLOYERS (owners of a contracting/tree trimming business). CLAIMANT said he had surgery to repair his wrist injury and medical bills have not been paid. He said

**Qualifications** (continued)

he has been given cash, but was not given Workers' Compensation benefits.

There was insufficient evidence to support a criminal complaint and this case was closed.

CASE #01-0082-M

Francisco  
MACHADO

Investigators: James Gray  
Rick Seiley

ADA: G. David Genochio

Kemper Insurance reported Francisco MACHADO was observed and video taped working as a parcel handler for Federal Express while receiving temporary total disability benefits from Airborne Express for an industrial back injury.

MACHADO was charged with two counts of Insurance Fraud and is scheduled to appear for arraignment on 6-29-2001.

On 9-24-2001, MACHADO pleaded "no contest" to a single count of grand theft. The two counts of Insurance Fraud were dismissed. He received the following sentence: 3 years formal probation, 30 days in jail (with credit for one day served), \$200.00 restitution fund fine and \$992.00 in direct restitution to Kemper Insurance.

This case was closed.

CASE #01-0345-M

CLAIMANT

Investigator: James Gray

Safeco Insurance reported CLAIMANT exaggerated his medical condition and made material misrepresentations at a 2000 deposition regarding a 1998 industrial neck and back injury.

There was insufficient evidence to support a criminal complaint and this case was closed.

CASE #01-0420-M

MEDICAL  
PROVIDER

Investigators: James Gray  
Patrick Murray  
Derrick Lane  
(CDI-San Jose)

A personal-injury attorney reported false billing for chiropractic care by MEDICAL PROVIDER relating to an auto collision patient. The patient (who had also been an employee of chiropractic office) reported billings for treatment not received and named other claims (which

**Qualifications** (continued)

included Workers' Compensation patients) that may have also received false billings for treatment.

An associate chiropractor who worked at MEDICAL PROVIDER contacted the DAO and reported additional billing fraud. He provided the names of patients and specific incidents of fraud. Subsequently, patients were contacted and fraud allegations were corroborated.

This case will be jointly investigated with the CDI-San Jose. An undercover operation and search warrant service at two or more locations is anticipated.

This investigation will be carried into FY 2002/2003.

**INSPECTOR RICK SEILEY:**

CASE #01-0082-M

Francisco  
MACHADO

Investigators: James Gray  
Rick Seiley

ADA: G. David Genochio

Kemper Insurance reported Francisco MACHADO was observed and video taped working as a parcel handler for Federal Express while receiving temporary total disability benefits from Airborne Express for an industrial back injury.

MACHADO was charged with two counts of Insurance Fraud and is scheduled to appear for arraignment on 6-29-2001.

On 9-24-2001, MACHADO pleaded "no contest" to a single count of grand theft. The two counts of Insurance Fraud were dismissed. He received the following sentence: 3 years formal probation, 30 days in jail (with credit for one day served), \$200.00 restitution fund fine and \$992.00 in direct restitution to Kemper Insurance.

This case was closed

**INSPECTOR PATRICK MURRAY:**

CASE #01-0315-M

CLAIMANT

Investigator: Patrick Murray

Paula Insurance reported CLAIMANT made false and inconsistent statements to an insurance investigator, to physicians and at deposition regarding a claim for benefits stemming from a 1999 leg and hip injury.

This investigation will be carried into FY 2002/2003.

Qualifications (continued)

CASE #01-0343-M

CLAIMANT

Investigator: Patrick Murray  
Kathleen Harris  
(CDI-San Jose)

California Indemnity reported CLAIMANT made material misrepresentations at a 2000 deposition relating to a 1995 industrial back injury. This is a joint investigation with CDI-San Jose.

This investigation will be carried into FY 2002/2003.

CASE #01-0344-M

CLAIMANT

Investigator: Patrick Murray

State Compensation Insurance Fund reported CLAIMANT collected temporary disability benefits stemming from a 1996 industrial back injury. They alleged he made material misrepresentation to an AME regarding the additional employment and at a 2000 deposition.

This investigation will be carried into FY 2002/2003.

CASE #01-0420-M

MEDICAL  
PROVIDERInvestigators: James Gray  
Patrick Murray  
Derrick Lane  
(CDI-San Jose)

A personal-injury attorney reported false billing for chiropractic care by MEDICAL PROVIDER relating to an auto collision patient. The patient (who had also been an employee of chiropractic office) reported billings for treatment not received and named other claims (which included Workers' Compensation patients) that may have also received false billings for treatment.

An associate chiropractor who worked at MEDICAL PROVIDER contacted the DAO and reported additional billing fraud. He provided the names of patients and specific incidents of fraud. Subsequently, patients were contacted and fraud allegations were corroborated.

This case will be jointly investigated with the CDI-San Jose. An undercover operation and search warrant service at two or more locations is anticipated.

This investigation will be carried into FY 2002/2003.

CASE #01-0766-M

CLAIMANT

Investigator: Patrick MURRAY

**Qualifications** (continued)

A Worker's Compensation defense attorney reported CLAIMANT had made a post-termination claim for a back injury and made misrepresentations at a subsequent deposition regarding previous back injuries and treatment received.

A request for the claim file was made to Mid-Century Insurance. The file was reviewed and the deposition transcript was reviewed.

There was insufficient evidence to support a criminal complaint and this case was closed.

CASE# 01-0768-M

CLAIMANT

Investigator: Patrick Murray

SCIF reported CLAIMANT claimed to have received a back injury on her first (and only) day of work. SCIF reported other employees had not witnessed her doing the work activities she claimed caused her injury and had located medical records relating to a previous industrial back injury CLAIMANT suffered.

There was no direct evidence to prove the injury was not valid and CLAIMANT made no misrepresentations regarding the previous injury.

There was insufficient evidence to support a criminal complaint and this case was closed.

CASE #02-0012-M

Otilia DIAZ

Investigator: Patrick Murray

Prosecutor: G. David Genochio

Zenith Insurance reported Otilia DIAZ made two claims for injuries to her shoulders, back and legs in 1999. She denied any previous medical problems to her treating physician and at deposition. Medical records revealing previous injuries and treatment were located which refuted her claims.

On 2-20-2002, one count of Workers' Compensation Insurance Fraud and one count of Perjury were filed against DIAZ.

On 5-31-2002, a preliminary hearing was conducted and DIAZ was held-to-answer one count of insurance fraud.

This prosecution will be carried into FY 200212003

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CASE #02-0016-M

CLAIMANT

Investigator: Patrick Murray

A Worker's Compensation defense attorney reported CLAIMANT had made a post-termination claim for a knee and back injury. He stated CLAIMANT made misrepresentations at a subsequent deposition regarding his ability to work since his injuries. The case file was obtained, deposition transcript reviewed and the subrosa video viewed.

There was insufficient evidence to support a criminal complaint and this case was closed.

CASE #02-0071-M

INSURANCE CARRIER

Investigator: Patrick Murray

A Workers' Compensation insurance applicant attorney reported a claims handler with INSURANCE CARRIER made a material misrepresentation regarding an Agreed Medical Examination which causes a claimant to be denied benefits she would otherwise be eligible

The claim file was requested from INSURANCE CARRIER and the chiropractor involved with the claimants treatment was interviewed. The situation appears to have been caused by a miscommunication and no crime was involved.

This case was closed.

CASE #02-0173-M

CLAIMANT

Investigator: Patrick Murray

Kemper Insurance reported CLAIMANT had possibly received income from another source while on total temporary disability for an industrial back injury.

This investigation will be carried into FY 2002/2003.

# WORKERS' COMPENSATION INSURANCE FRAUD SUMMARY OF CLOSED AND CONTINUING PROSECUTIONS

JULY 1, 2001 - JUNE 15, 2002

(USE ADDITIONAL PAGE, IF NECESSARY)

CASE NUMBER	REFERRED BY*	CODE SECTION	NUMBER ARRESTED	NUMBER HELD TO ANSWER	NUMBER CONVICTED	FINE	RESTITUTION
98-0916-M	P	1871.4 IC	1	1	1	\$400	PENDING
99-0023-M	O	550(b)(2) PC	2	N/A	2	\$9,973.18	\$51,970.82
01-0082-M	P	18971.4 IC	1	N/A	1	\$200.00	\$992.00
02-0012-M	P	1871.4 IC	1	1	PENDING	PENDING	PENDING

\* CDI (Fraud Division, California Department of Insurance), P (Private Carrier, S.I.U.), S (Self-Insured Employers), T (Third-Party Administrators), L (Local Law Enforcement), or O (Other)

## COUNTY PLAN PROBLEM STATEMENT

### Question 1

- a. Please document and describe the types of Workers' Compensation insurance fraud (claimant, medical/legal provider, premium/employer fraud, insider fraud, insurer fraud) relative to the extent of the problem specific to your county.**

The extent of the Worker's Compensation Insurance fraud problem in Santa Cruz County can be quantified by the nature and number of reported fraud cases. Historically, claimant (applicant) frauds have consumed the vast majority of grant-related resources and they continued to be the most frequently reported type of case.

Medical/legal provider frauds have proven to be elusive targets and previous to only one medical provider had been prosecuted in this county.

However, during FY 2001/2002, a joint medical provider billing fraud investigation between CDI-San Jose and the Santa Cruz District Attorney's Office was completed against a Santa Cruz chiropractor and his wife/office manager. A guilty plea to ten felon counts of insurance fraud was accepted and approximately \$67,000.00 in fine and restitution was ordered.

Also in FY 2001/2002, another medical provider fraud investigation was initiated involving another chiropractor. This joint investigation will involve an undercover operation and search warrant services at two or more locations.

There was been no evidence to suggest there are any fraud "mills" involving medical and/or legal providers operating in Santa Cruz County.

Investigative tips relating to premium fraud and insurer fraud have been very rare.

- b. Estimate the magnitude of the workers' compensation insurance fraud problems and identify the type of fraud indicators in your county.**

As mentioned in the answer above, the indicators of fraud in this county are reflected by the cases reported. The insurance company SIUs, Third-party Administrators and Self-Insureds have diligently reported suspected claimant frauds and outreach efforts have generated more investigations. We feel that claimant frauds will continue to be the predominate number of cases referred and investigated.

## COUNTY PLAN PROBLEM STATEMENT (cont'd)

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In FY 2000-2001, a medical provider fraud (detailed above) was completed. This case was generated from a tip from the boyfriend of a patient who had noticed suspicious billings for office visits on her treatment statement. The insurance companies that had been victimized by this billing fraud scheme were unaware that the billings were false. They would not have, most likely, discovered the crime through their own fraud-detection systems.

A single potential premium fraud investigation was initiated this grant year which involved a day-worker injured in a chainsaw accident. This investigation is continuing.

We have received several reports over the duration (although none during FY 2001/2002) of employers not carrying Workers' Compensation insurance coverage for their employees, but have declined to fully investigate those cases. Future cases such as these will be referred to the Labor Board.

### Question 2

**Identify the county's performance objectives that the county would consider attainable and would have a significant impact in reducing workers' compensation insurance fraud.**

The Santa Cruz County District Attorney's Office has historically and consistently accepted all viable suspected fraud referrals for investigation, regardless of the nature of the fraud or the loss amount. We will accept cases that involve no actual loss with the attitude that the fraud itself is the crime. In FY 1999-2000, a case involving a \$432.00 loss was investigated and successfully prosecuted.

Our continued aggressive stance towards fraud investigation and prosecution has been, and will undoubtedly continue to be, a deterrent affect to those who would commit fraud. The knowledge that our office can and will investigate and prosecute insurance fraud cases can obviously be a factor in reducing fraud overall.

We will step up our efforts to educate the public in Workers' Compensation insurance fraud and our office's vigilance in the investigation and prosecution of these crimes.

**COUNTY PLAN**  
**PROBLEM STATEMENT (cont'd)**

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**Question 3**

**What are the long term goals of the county in the battle against workers' compensation insurance fraud for the next three years?**

In Santa Cruz County, we are not at a loss for viable suspected fraud investigation referrals. In **FY** 2000-2001, we added a second "extra-help" investigator to the Workers' Compensation fraud team to work on a backlog of cases. Much progress was made. In FY 2001-2002, an inspector at half-time replaced the "extra-help" investigator and this will continue in FY 2002-2003.

We intend to continue acting on our philosophy that there is no case too small or large to accept. We will solicit case referrals from sources and to follow-up on all potential fraud tips that are received. We intend to further expand our already good working relationship with the CDI-San Jose.

We will explore avenues towards uncovering premium and insurer frauds. Reports of these frauds have been rare in the past, so we suspect these remain an under reported areas of Worker's Compensation insurance fraud.

Towards this goal, we intend to increase dissemination of public information and awareness of these crimes. We will also collaborate more intensely with district attorney's offices and consumer agencies throughout the state in order to identify potential frauds occurring in our jurisdiction.

## COUNTY PLAN PROGRAM STRATEGY

### 1. Describe the manner in which the District Attorney will address the problem defined in the Problem Statement.

The Santa Cruz County District Attorney's Office traditionally has received fraud referrals directly from the Fraud Bureau, insurance company SIU's, self-insured employers, third-party administrators, law enforcement, citizen informants and claimants reporting they have unlawfully been denied benefits.

The cases that were referred by SIUs, etc., were submitted in a wide spectrum of completeness. Some were presented with thoroughly and accurately investigated claims which included summaries and clearly marked exhibits. Other cases that were submitted generally contained a stack of medical records and a cover sheet. None of the submitted cases were of such a high quality that no additional investigation was necessary in order to obtain a criminal complaint.

It is the philosophy of the Santa Cruz County District Attorney's Office to accept any suspected fraud case, regardless of the amount of loss (there is no need that a loss occurred at all, as long as the fraud is present), and in whatever form or condition it is received, as long as the basic elements of the fraud are present. Each case will be further investigated to a point where it can be determined if a criminal conviction can, or cannot, be brought.

Additionally, we aggressively pursue the prosecutions undertaken and demand restitution (when a loss has occurred) as a condition of any plea. We have received very favorable comments from SIUs and insurance defense attorneys regarding our efficiency and aggressiveness in handling fraud investigations and prosecutions.

A close relationship has been formed with the Department of Insurance Fraud Bureau field office in San Jose. That office has assigned investigators to conduct cases in Santa Cruz County. It is hopeful that investigations conducted by CDI personnel will be submitted for prosecution in FY 2001-2002.

Santa Cruz County elected a new District Attorney in December, 2000, Kathryn Canlis. She has given her full support to the Workers' Compensation insurance fraud program and some personnel changes have been made.

The investigator who had been assigned to the grant for the last four years, Inspector James Gray, was promoted to a supervisory position. He will continue to work under the grant into FY 2001-2002 at a level of 10% of his time. He will be responsible for handling the intake of all new referrals and will assign those cases which are viable for investigation. He will complete those investigations he has already initiated. He will also be responsible

## COUNTY PLAN PROGRAM STRATEGY

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for the enforcement portions of the grant preparation and presentation.

For FY 2001-2002, a new investigator, Inspector Stephen Fitzgerald, will come into the grant and will devote 50% of his time to the program. He will be solely responsible for the investigation of fraud cases.

The program prosecutor, ADA James Jackson, took an extended vacation and medical leaves during FY 2000-2001 and was replaced by Assistant D. A. G. David Genochio. A.D.A. Genochio has approximately nine years experience (intermittently) in the program and will be handling all of the grant prosecutions at 20% of his time.

2. Please elaborate on the District Attorney's plan for outreach to the public and private sectors.

The personnel changes noted above will free the supervising investigator and prosecutor to initiate outreach to potential sources of case referrals.

3. If the program does not have a full workload, please describe what steps the county will take to improve the situation?

Keeping a full workload has not been a problem. Our problems involve trying to keep up with the work received. The new personnel structure outlined above should make the case intake, evaluation and investigation (which takes, by far, 'the most grant time) a more efficient operation during FY 2002-2003.

4. **As part of** the overall management plan, describe how the District Attorney will achieve the objectives **of** the program. Describe the hiring plan, activity plan, and time line schedule for the program. Discuss the internal quality control procedures that are in place or will be employed to assure objective achievement. Discuss the budget monitoring procedures that are in place or will be employed.

In order to achieve the objectives of the program only experienced, well qualified individuals will be assigned to the Insurance Fraud Unit by the District Attorney. The program attorney will provide legal assistance to the insurance fraud investigators and will continue to review, file (when appropriate) and vertically prosecute all Workers' Compensation fraud cases.

## COUNTY PLAN PROGRAM STRATEGY

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All Insurance Fraud Program cases received by the District Attorney's Office are entered into an automated case tracking system and are separately identified for case tracking purposes. The supervising fraud investigator will maintain an ongoing summary of fraud cases and is responsible for compiling the investigation/prosecution statistics.

On an annual basis, there will be a series of meetings addressing the preparation and submission of the annual report to the Insurance Commissioner. This report will address the accomplishments of the Santa Cruz County Insurance Fraud Program.

Financial and budgetary aspects of the Insurance Fraud Program will be supervised by the District Attorney's Administrative/Financial Officer. The annual financial audit report will be prepared by the Auditor/Controller of Santa Cruz County or his designee. This report will be provided to the Board of Supervisors of Santa Cruz County and the California Department of Insurance.

In that the District Attorney's Insurance Fraud Program has been in continuous operation during FY 2001-2002, there will not be any delays anticipated in carrying out program activities in FY 2002-2003.

5. A "Joint Investigative Plan" must be properly developed and agreed upon by both District Attorney and the Fraud Division to create the framework for effective communication and resource management in the investigation and prosecution of insurance fraud. See Attachment C - Guidelines for Preparing a Joint Investigative Plan.

(A Joint Investigative Plan must be submitted in this application. County District Attorneys and the Fraud Division are required to develop and to follow the plan.)

See the attached Joint Investigation Plan between the Santa Cruz County District Attorney's Office and the Department of Insurance.

6. What other anti-fraud programs or units are maintained within the District Attorney's Office? How will this program be integrated with them?

There are six other anti-fraud programs maintained in the Santa Cruz County District Attorney's Office. These programs are:

- Public Assistance Fraud Program



- Consumer Fraud Program
- Real Estate Fraud Program
- Elder Abuse Fraud Program
- Auto Theft/Auto Insurance Fraud Program
- Environmental Fraud

Three assistant district attorneys and four district attorney investigators are assigned to investigate and prosecute these fraud cases. The attorneys will provide legal assistance to the insurance fraud investigator and will "back up" the grant attorney when necessary.

7. Labor Code 3820 clearly sets forth the Legislative intent that funds used to combat workers' compensation insurance fraud are to come from the Fraud Account and that those funds should be partly produced by the imposition of the penalties in this section.

Describe the county's efforts and the District Attorney's plan to obtain restitutions and fines imposed by the court to the Fraud Account as the legislative intent specifies.

- a) The insurance fraud investigator attended the 2002 CDAA insurance Fraud conference in Monterey.

it is projected that both grant investigators and the prosecutor will attend the conference in 2003. Both investigators will join and participate in the Northern California Fraud investigators Association.

- b) There are very few SIUs in Santa Cruz County. The vast majority of case referrals are presented by SIUs, etc., from other counties. The program investigator has traveled to San Jose, Menlo Park and San Francisco by invitation to speak to insurance SIUs, adjustors and examiners to the topic of what is needed in order to prosecute criminal fraud cases. It is intended that presentations such as these are continued in FY 2002-2003.
- c) It is hopeful that during FY 2002-2003 some training can be coordinated with personnel from the CDI-San Jose for SIUs, TPAs, etc.

**8. Describe staff rotational policies that affect the program.**

Other than the personnel changes noted above, there will no other anticipated changes in FY 2002-2003.

**9. Labor Code 3820 clearly sets forth the Legislative intent that funds used to combat workers' compensation insurance fraud are to come from the Fraud Account and that those funds should be partly produced by the imposition of the penalties in this section.**

Describe the county's efforts and the District Attorney's plan to obtain restitutions and fines imposed by the court to the Fraud Account as the legislative intent specifies.

Between FY 1998/1999 and FY 2001/2002, a medical provider fraud case was jointly investigated by the District Attorney's Office and the San Jose Fraud Division of CDI. A guilty plea to ten felony counts of insurance fraud was accepted and approximately \$67,000.00 in fines and restitution was ordered. \$45,000.00 of the fines were directed to the Workers' Compensation (\$30,000.00) and Auto Insurance (\$15,000.00) Fraud Grant Funds.

In future cases such as this, restitution to the Fraud Grant Fund will be requested as part of any conviction, whether by plea or verdict.

**10. Effective January 1, 2003, District Attorneys are authorized to utilize Workers' Compensation Insurance Fraud funds for the investigation and prosecution of an employer's willful failure to secure payment of Workers' Compensation. Describe the County's efforts to address the "uninsured" employer's problem.**

The decision to free funds for investigating and prosecuting "uninsured" employers is very welcomed.

During FY 1997/1998, we conducted a joint three-days sting operation with the California State Contractors Licensing Board in which several "contractors" (some licensed, but most not licensed) bid on various repairs and services. Those contractors who had committed to use employees to conduct the work and who did not have Workers' Compensation coverage for those employees were cited and prosecuted under the Labor Code.

It was later learned that Grant funds could not be used for "uninsured" employer cases and

all pro-active investigations were discontinued. Several cases since FY 1997-1998 have been received involving “uninsured” employers, but no action was taken on them.

It will be proposed that a press release be generated in late 2002 to advise Santa Cruz County employers of the new funding resource and that another sting operation be initiated in the Spring of 2003.

STATE OF CALIFORNIA DEPARTMENT OF INSURANCE  
WORKERS COMPENSATION INSURANCE FRAUD

TOTAL ALLOCATION: **\$119,289.23**

FISCAL YEAR: **200212003**

BUDGET CATEGORY AND LINE-ITEM DETAIL		SUB	COST
<b>A. Personal Services - Salaries/Employee Benefits</b>			
<b>1. 0.25 FTE Assistant District Attorney - D. Genochio</b>			
Based on annual salary of \$113,563		\$28,391	
On-call pay: 256 hours X \$2.00		\$128	
Salary Total			\$28,519
Based on annual expenditure for OASDI @ \$6,910		\$1,728	
Based on Employee Insurance/Annual Rate of \$4,692		\$1,173	
Benefits Total			\$2,901
<b>.25 FTE Total</b>			<b>\$31,420</b>
<b>2. .10 FTE DA Inspector (level II)- J. Gray</b>			
Based on annual salary of \$85,654		\$8,565	
POST differential pay: \$1.10 per hr.		\$229	
Salary Total			\$8,794
Based on annual retirement of \$2,989		\$299	
Based on annual expenditure for OASDI @ \$1,242		\$124	
Based on Employee Insurance/Annual Rate of \$5,138		\$514	
Benefits Total			\$937
<b>.10 FTE Total</b>			<b>\$9,730</b>
<b>2. .50 FTE DA Inspector (level II)- P. Murray</b>			
Based on annual salary of \$60,630		\$30,315	
Salary Total			\$30,315
Based on annual retirement of \$2,116		\$1,058	
Based on annual expenditure for OASDI @ \$879		\$440	
Based on Employee Insurance/Annual Rate of \$3,822		\$1,911	
Benefits Total			\$3,409
<b>.50 FTE Total</b>			<b>\$33,724</b>
<b>TOTAL EMPLOYEE SALARIES &amp; BENEFITS</b>			<b>\$74,874</b>

BUDGET CATEGORY AND LINE-ITEM DETAIL		
B. Operating Expenses (List all equipment under \$1,000 & attach justifications as required.)		
	SUB	COST
<b>1. Conference and Training Requirements:</b>		
<b>CDAAC Conference</b>		
Attorney and DA investigator		
(A) Registration @\$200.00 for two assigned staff	\$400	
(B) Per Diem for two days @\$42.00 for assigned staff	\$1 68	
(C) Hotel Accomodations @\$82.00 for two assigned staff	\$1 64	
<b>NCFIA Training</b>		
DA Investigator		
(A) Registration @\$80.00 & \$25 membership fee for assigned staff	\$1 05	
(B) Per Diem for three days @\$42.00 for assigned staff	\$1 26	
(C) Hotel Accomodations @\$82.00 for assigned staff	\$1 64	
<b>Total</b>		<b>\$1,127</b>
<b>2. Indirect Cost</b>		
The State Department of Insurance program guidelines stipulate that indirect costs may not exceed 5% of the total direct program costs excluding equipment		<b>\$4,808</b>
<b>3. Audit Costs</b>		<b>\$1,600</b>
<b>4. Computer Operation and Maintenance</b>		<b>\$9,500</b>
<b>5. Services and Supplies</b>		<b>\$6,000</b>
<b>6. Phone Services</b>		<b>\$950</b>
<b>6. Fleet Services</b>		<b>\$2,102</b>
<b>TOTAL- page 1</b>		<b>\$26,087</b>

<b>BUDGET CATEGORY AND LINE-ITEM DETAIL</b>		
<b>C. Equipment (List individual items over \$1,000 &amp; attach justifications as required.)</b>	<b>SUB</b>	<b>COST</b>
No Equipment Scheduled for Purchase		\$0
TOTAL EQUIPMENT		\$0
PROJECT TOTAL		\$100,961

**WORKERS' COMPENSATION FRAUD PROGRAM**  
**Equipment Log of FY 2002-2003**

County of SANTA CRUZ

Equipment Ordered	Equipment Costs	Date Ordered	Date Received	Serial Number	Equipment Tag Number		
NO	EQUIPMENT	WAS	ORDERED	DURING	THIS	GRANT	PERIOD.

I certify this report is accurate and in accordance with the approved Grant Award Agreement

Signature:  Date June 18, 2002  
Eric Seib

# SANTA CRUZ COUNTY OFFICE OF THE DISTRICT ATTORNEY

0178

