

**STATE OF CALIFORNIA  
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes  
Sacramento, California  
November 5, 2024**

This meeting was a hybrid meeting with the option for the public to attend in person or via teleconference. Commissioners personally in attendance: Chairperson Jay Bobrowsky, Vice-Chairperson Branden Lopez, and Commissioners Dan Calamuci, Joseph Carresi, Tim Cloney, Tyrone Spears, and Soraya Wright.

Others present: Eric Charlick, Deputy Commissioner (DC), California Department of Insurance (CDI) Enforcement Branch; Victoria Martinez, Acting Division Chief, CDI Fraud Division, Shawn Conner, Felicia Lieb, and Eric Williams, Deputy Chiefs, CDI Fraud Division and Susan Burns, Acting Deputy Chief, CDI Fraud Division.

Yvonne Hauscarriague, Senior Staff Counsel, CDI Government Law Bureau, attended via teleconference.

**I. Fraud Assessment Commission**

Chairperson Bobrowsky opened the meeting at 10:30 am. Chairperson Bobrowsky read the process to request documents presented today and how to make public comments if calling in or attending via Zoom. All votes will be conducted by roll call vote.

**a. Opening Remarks**

Chairperson Bobrowsky said he is happy the meeting was moved to November so that the Commissioners will be able to make an informed decision.

Chairperson Bobrowsky asked the Commissioners if they have any opening remarks. Commissioner Cloney thanked those who were in-person for being present. No other opening remarks.

**b. Approval of the Summary Meeting Minutes**

Chairperson Bobrowsky asked the Commissioners to review the meeting minutes from the last meeting on June 26, 2024.

**Motion**

Vice-Chairperson Lopez made a motion to accept the meeting minutes. Commissioner Cloney seconded the motion.

## **Action**

The summary minutes were unanimously accepted via a roll call vote.

### **c. Public Comments**

Chairperson Bobrowsky asked if there were any public comments and there were none.

## **II. Enforcement Branch**

### **a. Administrative Update**

Deputy Commissioner (DC) Charlick thanked the Local Assistance Unit (LAU) for their continued efforts. LAU is currently focused on customizing and fine-tuning the Post Awards System and the Grant Case Management System (GCMS). CDI will give counties as much advance notice as possible before GCMS rolls out.

CDI's latest recruitment and hiring is outlined in the Annual Report that will be handed out later.

Chairperson Bobrowsky asked where CDI is at with recruitment and staffing. DC Charlick replied that only about 30% of people pass background. Recruitment is constant. Unfortunately, the candidate pool for law enforcement isn't the same as it was long ago.

Chairperson Bobrowsky asked are we seeing lateral applicants or people without experience. DC Charlick said we're seeing both. Chairperson Bobrowsky asked how many people are currently in the academy. DC Charlick advised 2 graduated the academy and there are none in the current academy.

Commissioner Cloney asked if CDI could hire non-law enforcement staff. DC Charlick said probably not because then we get into the gray area of "like-work" with different pay. However, CDI does have analysts who assist the detectives.

Commissioner Wright asked what can be done looking forward in the future. DC Charlick said we recruit at colleges and we have paid student assistant positions. We also recruit at the academies as well for those who are self-sponsored. He also said all state agencies are competing for the same candidates. He said we don't want to get lax on background checks and hire someone who may not be fit.

Chairperson Bobrowsky asked if DC Charlick could speak about AB 2872. DC Charlick advised we lost a lot of people to DOJ due to the pay gap. AB 2872 was a bill that would close that pay gap. Commissioner Lara supported AB 2872 and CDI put a lot of work into it. Unfortunately, it ended up getting vetoed by the Governor.

### **b. Public Comments**

Chairperson Bobrowsky asked if there were any public comments and there were none.

### **III. Workers' Compensation Program Overview**

#### **a. Program Overview**

The Fraud Division Annual Report was handed out to the Commissioners and copies were placed on the back table in the room.

This past year has been a successful one for CDI's Workers' Compensation program, as highlighted in the Fraud Division Annual Report. DC Charlick highlighted some successful prosecutions in the past fiscal year.

The DA's FY 25-26 projected plans and budgets are on a flash drive for the Commissioners', with a printed copy in a binder on the Commissioner's table and another on the table in the back of the room.

CDI Fraud Division has \$321,000 in unspent FY 23-24 funds that will go back to the DAs. There is also \$343,000 in fines and penalties that will also go back to the DAs.

Copies of the FY 23-24 DA Unexpended Funds Summary sheet and the DA Unexpended Funds for 8 Years Chart were handed out to the Commissioners, with copies placed on the back table. CDI received Financial Audits from 29 of the 34 counties and received Expenditure Reports from all 34 counties. The County DAs had a total of \$7.7 million in FY 23-24 unexpended funds, which was 14.89% of their total award.

DC Charlick acknowledged the economic impact of assessments on California employers. Consequently, CDI will not seek an increase for FY 25-26. However, we are evaluating the unspent DA funds and determining if CDI will be seeking an assessment split change. If it is determined a split change is being sought, it will be brought up at one of the next two meetings. If CDI seeks another split change, it will likely be a onetime split change and would be just for the amount of unspent funds being returned to the DAs. If the following year there is another high amount of unspent funds, Commissioner Lara may seek a permanent split change to the assessment.

Vice-Chairperson Lopez asked if CDI knows the carryover amount. DC Charlick said yes, it's about \$3.9 million and the remainder will be returned to CDI to be distributed to the DAs the following year. However, a portion of it would go to CDI if the assessment split is changed again. CDI has been as transparent as possible with William Lee from San Bernardino with our intentions for the future split.

Vice-Chairperson Lopez said it is important to him to keep both the DAs and CDI accountable with their budgets. He said that listing the split assessment in the agenda is not sufficient enough transparency.

Commissioner Cloney said CDI didn't expend all their money either, so he wants a detailed plan from CDI if we seek a split in the future. DC Charlick stated out of CDI's \$50 million budget, only about \$321,000 was unspent, which is a small fraction. DC Charlick

explained Fraud Division expended all our money, and likely overspent again, but not all the other support units such as IT, Legal, etc. expended all their funds.

Chairperson Bobrowsky confirmed the reason CDI was talking to William Lee is because he is the CDAA rep. Chairperson Bobrowsky also pointed out that CDI seems to be trying to be transparent with their intentions and aren't proposing a split change at this time, but letting them know it will be discussed later.

Commissioner Wright said she'd be interested in any feedback from the DAs. Chairperson Bobrowsky said that is next in public comments

#### **b. Public Comments**

Chairperson Bobrowsky asked if there were any public comments and there were none.

#### **IV. CDAA Update and DA Presentation**

William Lee of San Bernardino came up to the podium and presented a PowerPoint from CDAA. Mr. Lee thanked CDI for being transparent with advising in advance CDI will bring up the topic of a potential assessment split in the future.

The DAs are not asking for an increase, but they wanted to do a presentation for the Commissioners as many are new and they wanted to provide a better understanding of what the DAs do.

The DAs and CDI are law enforcement. They acknowledge the fraud assessment comes from the employers, but they get great value for that amount. He presented a bar graph showing that overall, since 2005, the industry average charged premium rate has decreased. The DA offices are governmental agencies and as DC Charlick stated, there are challenges recruiting law enforcement.

Vice-Chairperson Lopez asked about the amounts shown on the slides for the assessment amount per \$100 in payroll. Mr. Lee advised 0.71 cents per \$100 payroll is how much an employer would pay to the fraud fund. The \$1.63 is the employer's overall premium charged by the industry.

Chairperson Bobrowsky asked if grant funded DA staff are less likely to be pulled to another DA assignment. Mr. Lee said not necessarily, but it is a consideration.

Chairperson Bobrowsky asked what their office's vacancy rate is. Mr. Lee said approximately 10%, but he doesn't know what it is across the state for other DA offices. Chairperson Bobrowsky asked about recruitment. Mr. Lee said they go to law schools and try to recruit. Also, they interview constantly.

Commissioner Wright said that it takes time to develop college graduates and interns. She asked what is being done to get staff ready for this level of work needed to work these cases. Mr. Lee said when people come into the DAs office they usually get misdemeanor cases. They train in house along with attending conferences like CDAA.

Commissioner Spears asked what is the value of the assessment to a self-insured employer. Mr. Lee said he's not sure of the financial impact. However, when the DAs prosecute fraud, it reduces fraud.

Chairperson Bobrowsky asked if Mr. Lee could try and better answer Commissioner Spears question at the next meeting in 2 weeks. Mr. Lee said he will try. Chairperson Bobrowsky asked if they use retired annuitants. Mr. Lee said they explore all options, but to hire staff they need steady and reliable funding.

Vice-Chairperson Lopez asked if they were to hire experts does it require county approval. Mr. Lee said no, they can hire contracted employees, however there is some government bureaucracy still.

Vincent Marinaccio from Orange County came up to the podium to discuss the life cycle of a case. It starts with an FD-1 review. Once they receive the claim file and it's reviewed, they decide whether or not to open active investigation. An active investigation requires numerous interviews and usually several search warrants. When they receive financial records via search warrants, many times they have to use Forensic Accountants to analyze the data. Certain investigations can take 3-5 years depending on the amount of work involved. He said that with experienced staff, the life cycle of an investigation is expedited. Once the case gets to court, it can take years due to all the motions filed by the defense attorney. He spoke of prosecuting fraud against claimants insured through self-insured agencies and stated it is a deterrent for other potential fraud.

Commissioner Spears asked for the name of one of the cases he summarizes. Mr. Marinaccio replied it was USA Photocopy.

Vice-Chairperson Lopez asked if he has statistics on how many cases they are not able to prosecute due to inconsistent funding. He replied there are several factors considered when deciding whether or not to open an investigation. Orange is one of the highest funded counties so they wouldn't be a good county to ask that question.

Commissioner Calamuci asked if forensic accountants are grant paid employees or contracted. Orange has a team of CFTs and they are used by them and other departments.

Michael Chiriatti from San Bernadino came up to the podium to discuss changes to the criminal justice system. PC 1170(H) moved non-violent offenders to county custody. The state funding didn't trickle down to the county to house those inmates though. There are about 114 county jails and they average about 60,000 inmates. 23 out of their 58 counties are made to make "capacity-constrained" release decisions. Insurance fraud prosecutions are impacted as they are generally not violent offenders so they are typically released. It reduces their negotiation tactics due to known "capacity-constrained" release decisions. The courts are also having to look at how to move people through the justice system, which is resulting in court-ordered diversion. Restitution can also be an issue due to PC 1203.4. CIC 1874.2 has also hindered getting timely FD-1s from insurers. Some ways they are trying to combat these hurdles are by educating the bench, negotiating as much restitution up front, outreach, developing new referrals on their own, and collaborating with other entities.

Chairperson Bobrowsky said that he understands insurers can still send the FD-1 once there is reasonable belief fraud has been completed. Mr. Chiriatti responded that the CIC states "once the investigation is complete" they are to send the referral, so many insurers wait until then. Chairperson Bobrowsky asked if they are doing outreach to the public? Mr. Chiriatti advised that is coming up next in the presentation.

Commissioner Spears asked if diversion is the same as wobblers. Mr. Chiriatti advised no; diversion is when the court is diverting the case through the system typically without the DAs input. Wobblers can be either a felony or misdemeanor and will be a charging decision by the DA.

Commissioner Wright asked about outreach with employers. She asked how often do they reach out to employers to see if they want prosecution. Mr. Chiriatti said it depends. Generally, they work with the insurer, but if they have an interested employer they will communicate with them. Commissioner Wright said there could be a perceived difference about the value an employer is getting from the fraud assessment fee if they aren't involved in the charging decisions. Mr. Chiriatti advised it comes down to good communication.

Commissioner Carresi asked how much of a reduction in FD-1s they have seen since the new CIC 1874.2. Mr. Chiriatti said it's hard to say because it also coincided with the post-Covid era, but he is estimating about 20%. Commissioner Cloney said FD-1s went up year over year compared to last year, but down significantly from 5 years ago.

Next Tamara Martin from San Diego and David Bass from Sacramento presented. First Ms. Martin wanted to respond to some of the questions posed so far. Ms. Martin said that every DA office handles recruitment and staffing differently. In San Diego, they

have seen an increase in attorney attrition, but their response was to hire the largest class of attorneys she's seen since she's been there. They also have been recruiting mid-level attorneys. She said that as Mr. Lee said, they bring in attorneys from college so they can train them as necessary to be successful. Ms. Martin commented on hiring a forensic accountant; they have been trying to do that, but the process takes about 9 months to a year, and without continuity of funding they can't guarantee the funding will be there next year. What they are doing is hiring a forensic accountant on a contract basis.

Ms. Martin stated outreach is very important and she has gone around the state giving training on outreach. She just did a training session at CDAA about how to do outreach in different sized counties. Outreach educates the community on the ramifications of insurance fraud. It also educates the community on red flags to look out for, which increases their referrals. They utilize mass media such as billboards and transit shelter ads, along with training and presentations at conferences. They have also begun doing individual trainings at insurers. She said she can't speak for all counties, but they are using a large portion of their carryover this year for outreach.

David Bass from Sacramento said they are doing outreach to other agencies such as BAR. They do work with other DA offices trying to get legislative efforts put forth. Currently, the DAs are dealing with a mental health diversion law that was passed that is broad. Insurance fraud defendant are trying to utilize this diversion, which the law was not intended for.

Ms. Martin concluded that having stability and predictability in funding is extremely important to solve staffing issues.

Commissioner Cloney stated outreach is very important to him. He asked how are they picking the insurers they train. Ms. Martin said that when they see trends in FD-1s from certain carriers, they reach out to their SIU executive and offer to do training there. Commissioner Cloney asked what outreach they are doing to insurers that aren't submitting any FD-1s. Ms. Martin said it's hard to identify insurers that never send FD-1s, but it's easier to identify carriers that used to send FD-1s but haven't recently. Commissioner Cloney said if they reach out to agents and brokers, they will tell them which insurers are writing business in their county. Ms. Martin said they are doing training with San Diego County, who is self-insured, on sending referrals. They have done training with their county's largest self-insured employer.

Commissioner Carresi commented that he sits on the CA Association of Self-Insurers Board, and they have considered having presentations. Commissioner Wright commented that she agrees with outreach to brokerages. Commissioner Calamuci

asked if the wage theft grant is helping or augmenting their WC referrals. Ms. Martin replied that as for their county, they have seen an improvement in referrals and the two units are housed in the same division so they work hand in hand.

Vice-Chairperson Lopez said it sounds like it's difficult to get positions approved by the county, so it may be beneficial to have carryover to present to the county to show future funding for positions. Ms. Martin said each county is different, but her county likes to have some carryover. She said a lot of their carryover came from unplanned retirements.

Chairperson Bobrowsky stated that it sounds like there is an opportunity for the DAs to reach out to insurers. Ms. Martin said that she reached out to CDI and got a list of the 25 largest carriers in California. Chairperson Bobrowsky asked about carrier specific training with carriers that have staff outside of California. Ms. Martin said they usually do Zoom training to reach staff who aren't housed in California.

Chairperson Bobrowsky asked DC Charlick to come up and answer a question Commissioner Cloney had. Commissioner Cloney asked about the wording in CIC 1874.2. DC Charlick said he will have an answer at the next meeting.

#### **a. Public Comments**

Chairperson Bobrowsky asked for any public comments on the last topic. None in person or online.

#### **V. Public Comments**

The floor was opened for public comment on any agenda items and there were none.

#### **VI. Other Business**

Next meeting is 2 weeks from today at the same time.

#### **VII. Closing Remarks**

Chairperson Bobrowsky thanked the DAs for their educational presentation. He stated that consistent staffing, a balanced caseload and outreach are very important.

Commissioner Calamuci thanked everyone for the informational meeting. He seconded the importance on outreach.

Commissioner Carresi said that as a new Commissioner, the detailed presentation will help him make better decisions in the future.



Commissioner Cloney thanked everyone for their presentation and passionate discussions.

Vice-Chairperson Lopez asked if CDI could poll the counties on how the DAs generally handle situations. Mr. Lee responded that every DA office is different and CDAA is a coalition. If the Commissioners have particular questions they could email Mr. Lee and he will reach out to his partners and have a response prepared for the next meeting.

Commissioner Spears said that he was there at a June conference and he appreciated the DAs presence.

Commissioner Wright said she keeps hearing about the DAs trying to fix staffing. She wants the DAs to start thinking about not just trying to catch up, but how to get ahead.

**Motion**

Commissioner Spears made a motion to adjourn the meeting. Commissioner Cloney seconded the motion.

**Action**

The Commissioners unanimously approved via a roll call vote and the meeting adjourned at 12:43 pm.