

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Sacramento, California
September 11, 2019**

In attendance: Don Marshall, Chairperson; and Commission Members John Riggs, Christine Baker, Jay R. Bobrowsky, and Joel Sherman.

Others present: George Mueller, Deputy Commissioner (DC), Enforcement Branch (EB), California Department of Insurance (CDI); Eric Charlick, Assistant Chief (AC), CDI Fraud Division; Steve Smith, Chief, EBHQ Support and Compliance; and Patricia Hein, Senior Staff Counsel, CDI Legal Division.

Opening Remarks

Chairperson Marshall opened the meeting at 10:35 a.m. and asked the Commissioners if they wished to make any opening comments.

Commissioner Riggs expressed his appreciation for the work being done and the reports he had the opportunity to read over the past week.

Commissioner Sherman indicated that he had reviewed the documents provided at the prior meeting and offered a sports analogy.

Chairperson Marshall commented that he found some numbers shrunk and that stats are important.

There were no other opening comments.

Approval of the Summary Meeting Minutes

Chairperson Marshall then asked for a motion to approve the submitted summary minutes from the September 4, 2019 meeting.

Motion

Commissioner Sherman made a motion to accept the September 4, 2019, summary minutes as submitted. Commissioner Bobrowsky seconded the motion.

Action

The summary meeting minutes were unanimously approved. Chairperson Marshall moved to the next agenda item and turned the meeting over to DC Mueller.

Enforcement Branch Administrative Update

DC Mueller started by asking everyone to take a moment in memory of those affected by the 9/11 attacks.

DC Mueller then informed the Commissioners that, when he met with the Insurance Commissioner in June, the Commissioner had approved the use of the pro-rata approach for calculating the distribution of prior year-end balances should CDI determine such a distribution would be made. He estimated that the District Attorneys had submitted approximately \$300,000 in fines and penalties during Fiscal Year 2018-19. He further explained that the State had migrated to a new financial system, Fi\$Cal, and CDI was not currently able to provide additional year-end information.

DC Mueller continued the update by providing answers to Suspected Fraudulent Claims (SFCs) questions asked at the prior week's meeting and indicated that Chief Smith was available to answer questions. Chairperson Marshall and Commissioner Riggs asked several questions and made comments about dual reporting requirements and modifying the process for submittal of SFCs and Chief Smith highlighted the current status of CDI's enhancement efforts. Chairperson Marshall and Commissioners Baker, Bobrowsky, and Sherman made comments and asked various questions of Chief Smith regarding the number and quality of referrals made by insurers. The exchange also included discussion of outreach efforts by CDI and participating counties.

Public Comments

The floor was opened for public comments on this agenda item and there were none.

Aggregate Discussion

Chairperson Marshall moved to the next agenda item and all of the Commissioners participated in a discussion of the CDI and District Attorneys' Annual Reports, presentations, and public comments received at the prior meeting. The Commissioners commented on the various increase proposals presented at the September 4th meeting by CDI, CDAA, and by county representatives during public comment. The Commissioners expressed what they felt was effective, what their concerns were, where they saw opportunities, and what their expectations are.

The Commissioners' discussed the number of referrals, statistical trends, the need for data analytics, data collected by the Department of Industrial relations (DIR), restitution ordered and collected, and the importance of outreach efforts.

The commissioners commented on the increase in insurance fraud, the importance of fighting premium and provider fraud, as well as, the impact applicant fraud has on employers. They discussed the cost to investigate and prosecute insurance fraud and the challenges DA offices have when balancing resources and choosing how to spend their funds.

Commissioner Sherman focused the discussion on the request for a 14-15% increase made by several county DA representatives during public comment at the prior meeting.

Commissioner Bobrowsky expressed his support for a 15% increase and indicated that, to make the workplace safer, more needs to be spent on enforcement.

Commissioner Baker expressed that more analytics is needed and that she is not sure that a 15% increase is warranted at this time.

Commissioner Riggs questioned who would do the analytics and expressed that he was not in favor of a 14-15% increase.

Chairperson Marshall expressed concern over the 15% being discussed; he commented on differences in the types of fraud that is prevalent in the northern and southern areas of the state; acknowledged that big cases take more resources; and that he does not want to slow the program.

Chairperson Marshall also included an overview of the Insurance Commissioner's Review Panel's process for making recommendations for the awarding of funds to counties. He explained that the Fraud Assessment Commission has two seats on the panel. Chairperson Marshall and Commissioner Sherman commented on their recent participation as panelists.

There were no further comments from the Commissioners. Chairperson Marshall opened the floor for public comments on this agenda item.

Public Comments

Chief Deputy District Attorney (DDA) Michael Silverman of Riverside County addressed the Commission and commented on the decisions counties have to make on where to spend their funds and how to balance outreach efforts with personnel needs. DDA Silverman also took this opportunity to provide a clarification response to a Commission question at last week's meeting.

The next speaker was Assistant DA Jill Nerone of the Alameda DA Office. Ms. Nerone provided follow-up to questions regarding search warrants that were asked in response to her public comments at the last meeting. She also commented on Commissioner discussion comments regarding restitution.

The next speaker was Head DDA Jennifer Snyder of Los Angeles County who commented on how Los Angeles is handling restitution.

DDA Silverman also commented on Riverside's method for handling restitution.

Chairperson Marshall asked some additional questions regarding restitution ordered and collected and Ms. Nerone, Ms. Snyder, and Mr. Silverman responded. Commissioner

Sherman suggested that the counties make a presentation to the Commission on the topic of restitution.

Commissioner Sherman responded to comments regarding outreach and indicated that, while the counties need funds to litigate, the goal of outreach is to reduce this need through deterrence and education.

DDA Scott Tsui of Santa Clara County spoke as the CDAA representative and expressed that the counties appreciate the role outreach plays and that they understand and are committed to outreach.

Chief DDA Robert Brown of San Bernardino County addressed the Commission and commented on the challenges counties have when making financial decisions on where to allocate funding.

Head DDA Jennifer Snyder of Los Angeles County addressed the Commission again and responded to a question from the prior meeting regarding the cost and complexity of search warrants. She further expressed that, while counties are dedicated to outreach, there are limits on what the prosecutors have authority over, restrictions on how they can use social media, and differences in what is effective in each county.

There were no more public comments on this agenda item. Chairperson Marshall moved to the next agenda item.

Determination of Aggregate Assessment for Fiscal Year 2020-2021

Motion

Chairperson Marshall made a motion for a 10% increase. There was no second.

Commissioner Bobrowsky made a motion for a 12% increase. There was no second.

Commissioner Sherman expressed that he was not in support of an increase above 8% and Commissioner Baker expressed her agreement.

Commissioner Sherman made a motion for an 8% increase. Chairperson Marshall seconded the motion.

Chairperson Marshall asked CDI to clarify the dollar amount of an 8% increase. AC Charlick indicated that 8% is an increase of \$5,771,070 for a total assessment of \$77,909,442. The floor was opened for discussion by the Commissioners and there were no comments.

Action

A roll call vote was taken. The Fraud Assessment Commission (FAC), voted unanimously to approve the motion for an 8% increase.

Public Comments

Chairperson Marshall asked if there were any public comments on this agenda item and there were none.

Public Comments

Chairperson Marshall asked if there were any public comments regarding any of today agenda items. There being no further public comments, Chairperson Marshall moved to the next agenda item.

Other Business

Next Scheduled Meeting

Chairperson Marshall announced the next scheduled meeting as January 8, 2020, and that the meeting would take place in Sacramento.

Chairperson Marshall asked CDAA representative Scott Tsui, if he would like to arrange for a presentation on restitution at the January meeting and Mr. Tsui agreed.

Chairperson Marshall announced that Chief DDA Michael Silverman of Riverside County would be retiring in December and acknowledged his many years of service in support of the Program.

Closing Remarks

Chairperson Marshall asked the Commissioners if they had any closing remarks.

Commissioner Sherman commented on changes he would like to see in the RFA.

Commissioner Riggs expressed his appreciation for the counties efforts in fighting fraud.

There were no other closing remarks.

Public Comments

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

Chairperson Marshall asked for a motion to adjourn the meeting.

Motion

Commissioner Sherman made a motion to adjourn and Commissioner Bobrowsky seconded the motion.

Action

The Commissioners unanimously approved and the meeting adjourned at 12:05 p.m.